OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

Volume 42, No. 5
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For March 17, 2003–April 15, 2003

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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule's "History"

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

Locating the Most Recent Version of an Administrative Rule

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

Locating Administrative Rules Unit Publications

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

2002–2003 Oregon Bulletin Publication Schedule

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

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

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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A CHANCE TO COMMENT ON... PROPOSED CONSENT DECREES FOR REMEDIAL ACTION COSTS AT THE FORMER FASHION CLEANERS SITE IN KLAMATH FALLS, OREGON

COMMENTS DUE: May 30, 2003
PROJECT LOCATION: 623 Klamath Avenue, Klamath Falls, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into two Consent Decrees regarding a portion of DEQ's remedial action costs (cleanup costs) at the former Fashion Cleaners site in Klamath Falls, Oregon. One Decree is with Donald Rider, Evelyn Rider, Albert Rider and Betty Rider. The other Decree is with Richard Weber, dba Frontier Adjusters.
HIGHLIGHTS: The former Fashion Cleaners site was the site of a dry cleaner owned and operated by the Riders. During demolition of the building after a fire, dry cleaning solvent was released into the ground. DEQ has conducted removal actions to address contaminated soil at the site and in adjacent buildings, and has incurred substantial remedial action costs. DEQ initiated litigation against various parties to recover DEQ's remedial action costs. This Decree will fully settle DEQ's claims against the individuals named above.
HOW TO COMMENT: Written comments concerning the Consent Decree should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm May 30, 2003. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Decree may be reviewed at DEQ's Headquarters' Office and at the Klamath Falls Public Library.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments.
THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the Consent Decrees will be made after consideration of public comments.

CHANCE TO COMMENT ON… PROPOSED CONDITIONAL NO FURTHER ACTION DECISION FOR THE ATLAS COPCO WAGNER FACILITY, PORTLAND, OREGON (ALSO KNOWN AS THE WAGNER MINING PLANT)

COMMENTS DUE: June 2, 2003
PROJECT LOCATION: The Wagner facility is located at 4424 NE 158th Avenue, Portland, Oregon (the plant site next to the Columbia Slough nature park).
PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on DEQ's proposed conditional No Further Action decision for the Atlas Copco Wagner Mining (Wagner) facility in Northeast Portland.
HIGHLIGHTS: In February 2000, DEQ issued a consent order to Wagner Mining requiring a remedial investigation and feasibility study (RI/FS). The investigation identified metals, polychlorinated biphenyls (PCBs), petroleum hydrocarbons, and polycyclic aromatic hydrocarbons (PAHs) associated with petroleum hydrocarbons in sediments near several of the plant's storm water outfalls to the Columbia Slough. Chlorinated insecticides such as DDT were also found but are not associated with Wagner's manufacturing activities. An area of shallow groundwater contamination involving trichloroethylene (TCE) and tetrachloroethylene (PCE) was also identified.

Wagner conducted two interim removal measures to address the shallow groundwater contamination and sediment contamination within the Slough. Enhanced bioremediation of the shallow groundwater contamination was initiated in September 2001. The groundwater interim measure was successful in reducing TCE and PCE levels by at least 50 percent. In August 2002, Wagner removed 300 tons of contaminated sediments from the Slough in several areas in cooperation with the Multnomah County Drainage District (MCDD). An additional 1500 cubic yards of sediment was subsequently removed by MCDD for flood control purposes. The contaminated sediment was transported to a solid waste landfill for disposal. Following completion of the removal, sediment samples were collected to assess the level of contaminant reduction and evaluation of residual risk to human health and the environment.

A final RI Report issued in April 2003 documents the results of the investigation and the human health and ecological risk assessments for the facility. DEQ is recommending no further action for the shallow groundwater contamination. DEQ is recommending the removal of approximately 20 cubic yards of sediment where the sediments removed in 2002 were off-loaded from a barge for off-site disposal. This area was targeted for additional cleanup based on elevated PCBs in the area following the removal action. Upon completion of the additional removal, DEQ would issue a certification of completion for investigation and cleanup work conducted under the Consent Order issued in 2000.
HOW TO COMMENT: DEQ's Staff Report, which provides the basis for the recommended focused sediment removal and subsequent No Further Action decision, and supporting documents that comprise the Administrative Record for the proposal, are available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call: 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471.

Please send written comments to Bruce Gilles, Project Manager, at the address listed above or via email at gilles.bruce.a@deq.state.or.us. DEQ must receive written comments by 5 p.m. on June 3, 2003. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

Please notify DEQ of any special physical or other accommodations you may need due to a disability, language accommodations, or if you need copies of written materials in an alternative format (e.g. Braille, large print, etc). To make these arrangements, contact DEQ's Office of Communications and Outreach at 503-229-5317.
THE NEXT STEP: DEQ will consider all public comments received by the June 3, 2003 deadline prior to issuing a final cleanup decision for the facility.

DEQ SEEKS COMMENT ON SOIL CLEANUP AT RYDER TRUCK

COMMENTS DUE: May 30, 2003
PROJECT LOCATION: Ryder Truck, 310 North Columbia Boulevard, Portland, Oregon
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to approve a soil cleanup for the Ryder Truck facility.
HIGHLIGHTS: In 1998, Ryder removed a 2,000-gallon oil/water separator from the site. During excavation of associated petroleum-contaminated soil, a second, previously abandoned oil/water separator was encountered beneath a corner of a building on-site. Ryder excavated approximately 135 tons of petroleum-contaminated soil and disposed of the soil at a thermal treatment facility, TPS Technologies, Inc. In order to prevent undermining the building foundation, Ryder left a pocket of contaminated soil beneath the building and former oil/water separator. In October 1999, Ryder entered DEQ's Independent Cleanup Pathway for technical assistance and DEQ review of the investigation, cleanup activities, and final report. Following DEQ's review, Ryder completed additional soil confirmation sampling with analysis for total petroleum hydrocarbons (TPH), volatile organic compounds (VOCs) and polynuclear aromatic hydrocarbons (PAHs). All contaminants of concern were below the applicable risk-based industrial cleanup standards and only one

PAH detection slightly exceeded the residential standard. Ryder has demonstrated that residual contaminant concentrations do not pose an unacceptable risk for the current and likely future use of the property. Groundwater, estimated to be 30 to 45 feet below ground surface, has not likely been impacted.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment contact the acting DEQ Project Manager, Tom Roick, at 503-229-5502. Additional information is also available at http://www.deq.state.or.us/wmc/psrasp/ActiveSites.htm. Written comments should be sent to the project manager at the DEQ, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by May 30, 2003. A public meeting will be held to receive comments if requested by 10 or more persons or by a group with a membership of 10 or more.
THE NEXT STEP: DEQ will consider all public comments. Once comments are adequately addressed, DEQ will finalize a no further action determination for the facility.

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

COMMENT PERIOD: May 1 - June 2, 2003
COMMENTS DUE: June 2, 2003
PROJECT LOCATION: 3510 Pacific Drive, Forest Grove, Oregon.
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) invites public comment on the proposed corrective action for total petroleum hydrocarbons (TPH) and benzene, toluene, ethylbenzene and xylenes (BTEX) in soil and groundwater at the former Truax Harris Station. The proposed action includes: institutional controls to assure that future land use is restricted to commercial or industrial uses; notification of adjacent property owners that are potentially impacted by site contamination; continuation of a groundwater monitoring program; and development and implementation of Hazard Communication and Soil Management Plans.
HIGHLIGHTS: The Truax-Harris facility was a former Texaco service station. The station and associated fueling equipment were removed from the site in January 2001. Four steel aboveground storage tanks (ASTs) and one underground storage tank (UST) previously existed at the site. The tanks contained diesel, unleaded, and premium unleaded fuels. The UST was removed in December 1999. Contamination at the site is associated with incidental releases from the former tanks and former fuel pump islands. A number of environmental investigations have been conducted at the site to assess the presence of hazardous substances. Hazardous substances detected in soil and groundwater include: total petroleum hydrocarbons, benzene, toluene, ethylbenzene, xylenes, and polycyclic aromatic hydrocarbons. Benzene concentrations exceed acceptable risk-based concentrations in selected soil and groundwater samples.

A Corrective Action Plan (CAP) completed in 2001 proposed measures necessary to address potential risks to human health. The proposed corrective action includes institutional controls to prohibit the use of groundwater and residential development onsite. In addition, DEQ is proposing that appropriate protocols be developed and followed during site development; adjacent property owners be notified of potential hazards; and continued long-term groundwater monitoring be performed. The proposed corrective action is considered protective of human health and the environment, and therefore, meets the requirements of Oregon's Environmental Cleanup Laws.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment call at (503) 229-6729. The DEQ project manager is Rod Struck, (503) 229-5562. Written comments should be sent to Rod Struck, DEQ, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by June 2, 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 selecting the final corrective action.

PROPOSED REMEDIAL ACTION FOR SOUTHWEST LANDFILL LA PINE, OR

COMMENTS DUE: May 30, 2003
PROJECT LOCATION: 54580 Highway 97, Deschutes County, OR
PROPOSAL: The Department of Environmental Quality is proposing to issue a decision regarding cleanup activities at the above referenced site based on approval of an investigation conducted to date and a proposed remedy. Public notification is required by ORS 465.320.
HIGHLIGHTS: The subject property was originally used as a part of a logging railroad and a cinder pit. More recently the site was used as a municipal landfill by Deschutes County from 1975 to 1992. The property is currently used as a solid waste transfer station. Monitoring of the shallow groundwater beneath the site indicate low levels of volatile organic compounds (VOCs) are present, largely due to landfill leachate and seasonal contact of the waste with fluctuating groundwater levels. The County completed an investigation to determine the nature and extent of groundwater impact, a beneficial use of adjacent land and groundwater, and a risk evaluation for the likely exposure pathways. The extent of detectable VOCs in groundwater is on the subject property and adjacent land owned by the U.S. Forest Service. The groundwater flows to the northeast away from off site domestic wells. The surrounding land uses are primarily federally owned lands zoned for forest use. DEQ used this information to further evaluate the risk to an on site worker using the on site water well as a source of water.

Based on the risk evaluation conducted for the site, there is currently no unacceptable risk posed by the VOCs present in the shallow groundwater. However, since the landfill may provide an ongoing source of contamination, there is a potential for the on site water well to become impacted at levels that would exceed an unacceptable risk. The following actions are being proposed to maintain protective conditions at the site: 1) Restrict land use, 2) Prohibit future water wells or excavations without DEQ approval, and 3) Conduct regular monitoring of the on site water well and monitoring wells. In the event site specific action levels are exceeded in the water well, then one of the following remedial actions will be performed under DEQ oversite: 1) Abandon the water well and provide a new source of water, 2) Treat the well water to meet action levels, or 3) Develop another remedial alternative approved by DEQ to achieve protectiveness as defined in OAR-340-122-040.
COMMENT: The staff report recommending the proposed remedial actions may be reviewed by appointment at DEQ's Office in Bend, 2146 NE Fourth Street, Suite 104, Bend, OR 97701. To schedule an appointment, contact Toby Scott at (541) 388-6146, ext. 246.

Written comments should be sent by May 30, 2003 to Mr. Scott at the address listed above. Questions may also be directed to Mr. Scott by calling him directly.
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.

NO FURTHER ACTION REQUIRED ENVIRONMENTAL CLEANUP AT THE GLENBROOK NICKEL FACILITY COMPLETE

PROJECT LOCATION: 5093 Riddle By-Pass Road, Riddle, Oregon
PROPOSAL: The Department of Environmental Quality has determined that no further action is required at the Glenbrook Nickel Facility. Public notification is required by ORS 465.320.

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. Glenbrook conducted environmental investigations and sampling from April 2000 through October 2002 to identify potentially contaminated areas at the facility.

As part of the cleanup, Glenbrook excavated and removed contaminated soil. The soil removal has been successful in eliminating threats to human health and the environment. The cleanup included removal of about 39,000 cubic yards of soil contaminated with metals and petroleum hydrocarbons. Over 400 confirmation soil samples were taken from the excavated areas to ensure that the contaminated soil was removed. All excavated soil was disposed of at Valley Landfills, Inc in Corvallis, Oregon.

DEQ determined that the extensive soil excavation and off-site disposal has adequately mitigated any potential threat to human health or the environment posed by the former presence of metals and petroleum hydrocarbons, and no further action is required.

A more detailed description of the cleanup is presented in a DEQ site summary report prepared for the site. The report is available for review at DEQ's Salem Office. The Salem Office telephone number is (503) 378-8240.

NO FURTHER ACTION REQUIRED
ENVIRONMENTAL CLEANUP AT THE SEAL ROCK MERCURY RELEASE SITE COMPLETE

PROJECT LOCATION: Northwest of the Intersection of Seal Rock Street and Highway 101, Seal Rock, Oregon

PROPOSAL: The Department of Environmental Quality has determined that no further action is required at the site of a mercury release.Public notification is required by ORS 465.320.

HIGHLIGHTS: The site is on the south side of Hills Creek. It is currently used for recreational purposes. It is unclear how mercury contamination occurred at the site. Possible sources were former gold mining operations, road embankment fill material, or incidental dumping. After citizen complaints in 1999 and 2000, approximately 60 gallons of soil was removed. Soil sampling done in June 2002 confirmed that concentrations of mercury are below cleanup standards.

A more detailed description of the cleanup is presented in a DEQ staff report prepared for the site. The staff report is available for review at DEQ's Eugene office.

THE NEXT STEP: DEQ issued a No Further Action Letter for this site on March 25, 2003.

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the Notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number listed below.

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

A public rulemaking hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing by the Last Date for Comment as printed in the Notice of Proposed Rulemaking in the *Oregon Bulletin*. If sufficient hearing requests are received by an agency, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Board of Chiropractic Examiners
Chapter 811

Date:	Time:	Location:
5-22-03	11 a.m.	Western States Chiro. College Hampton Hall 2900 NE 132nd Ave. Portland, OR 97230

Hearing Officer: Dave McTeague
Stat. Auth.: ORS 684 & 058
Stats. Implemented: ORS 684.054 & 684.090
Proposed Amendments: 811-010-0085, 811-010-0086, 811-010-0110
Last Date for Comment: 5-22-03
Summary: 811-010-0085 Makes changes to the new licensee initial licensing process. Changes from annual fee schedule to birth date renewal schedule. 811-010-0086 Makes changes to the annual registration process for DC's. Changes from annual renewal schedule to a birth date renewal schedule. 811-010-0110 Makes changes to the annual registration process for CCA's. Changes from annual renewal schedule to a birth date renewal schedule.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Dave McTeague
Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE - Suite 150, Salem, OR 97302-6311
Telephone: (503) 378-5816, ext. 23

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Board of Geologist Examiners
Chapter 809

Date:	Time:	Location:
6-9-03	1 p.m.	Conference Rm. Sunset Center South 1193 Royvonne SE #24 Salem, OR

Hearing Officer: David Michael, RG, CEG, Chair
Stat. Auth.: ORS 671.310, 672.705 & 182.462
Stats. Implemented: ORS 672.705, OL 1999 Ch. 1084
Proposed Amendments: 809-010-0025
Last Date for Comment: 6-1-03
Summary: The 2003-2005 biennial budget of the Board will be approved at the June Board meeting. The Hearing will allow any oral comments. Written comments must be received by June 1, 2003.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Susanna R. Knight
Address: Board of Geologist Examiners, 707 13th St. SE, Suite 275, Salem, OR 97301
Telephone: (503) 566-2837

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Board of Massage Therapists
Chapter 334

Date:	Time:	Location:
6-11-03	1 p.m.	Best Western-Pacific Hwy 4646 Portland Rd. NE Salem, OR 97305

Hearing Officer: Michael Jordan
Stat. Auth.: ORS 183, 687.121 & SB 1127
Stats. Implemented:
Proposed Amendments: 334-001-0012
Last Date for Comment: 6-11-03
Summary: To adopt the 2003-2005 biennial budget.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Michelle Sherman
Address: Board of Massage Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302
Telephone: (503) 365-8657

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Board of Naturopathic Examiners
Chapter 850

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.145
Proposed Amendments: 850-010-0225, 850-010-0226
Last Date for Comment: 5-23-03
Summary: This amendment will update the compendium for naturopathic physicians, and pharmacists, to prescribe and fill prescriptions that are within Oregon law.

Substances to be added to the formulary compendium are: Ammonium lactate lotion 12%, Benzodiazepines, Benzonatate, Cefditoren, Clostridium botulinum toxin (ab), EDTA, Gabapentin, Galantamine H. Br, Hyaluronic Acid, Nafarelin acetate, Oxaprozin, Pimecrolimus Cream 1%, Spironolactone, Topical steroids, Triptans.
Rules Coordinator: Anne Walsh
Address: Board of Naturopathic Examiners, 800 NE Oregon St. - Suite 407, Portland, OR 97232
Telephone: (503) 731-4045

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Board of Nursing
Chapter 851

Date:	Time:	Location:
6-19-03	9 a.m.	800 NE Oregon Street Room 120-C (Willamette River Suite) Portland, OR 97232

Hearing Officer: Rolf Olson, Brd. President
Stat. Auth.: ORS 678.150 & 678.340
Stats. Implemented: ORS 678.150 & 678.340
Proposed Amendments: 851-021-0010, 851-021-0040
Last Date for Comment: 6-19-03
Summary: The proposed amendments to Division 21 would accept an entity approved by the United States Department of Education as an accrediting agency meeting the required standards for approval of a nursing education program.
**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:
6-19-03	9 a.m.	800 NE Oregon Street Room 120-C Portland, OR 97232

Hearing Officer: Rolf Olson, Brd. President
Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Proposed Amendments: 851-002-0010, 851-002-0040
Last Date for Comment: 6-19-03, 9 a.m.
Summary: These rules cover the basic licensure fees for the Oregon State Board of Nursing.
**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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Date:	Time:	Location:
6-19-03	9 a.m.	800 NE Oregon Street Room 120-C Portland, OR 97232

Hearing Officer: Rolf Olson, Brd. President
Stat. Auth.: ORS 678.375, 678.380, 678.385 & 678.390
Stats. Implemented: ORS 678.375, 678.380, 678.385 & 678.390
Proposed Adoptions: 851-050-0004
Proposed Amendments: 851-050-0000, 851-050-0001, 851-050-0002, 851-050-0005, 851-050-0120, 851-050-0121, 851-050-0125, 851-050-0130, 851-050-0131, 851-050-0138, 851-050-0140, 851-050-0145, 851-050-0150
Proposed Repeals: 851-050-0003, 851-050-0139, 851-050-0141
Last Date for Comment: 6-19-03
Summary: These rules cover the standards and scope of practice for the Nurse Practitioner. They also distinguish the scope of practice of the Nurse Practitioner from that of the Registered Nurse. It adds a new requirement for Registered Nurse practice prior to certification as a Nurse Practitioner.
**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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Date:	Time:	Location:
6-19-03	9 a.m.	800 NE Oregon Street Room 120-C Portland, OR 97232

Hearing Officer: Rolf Olson, Brd. President
Stat. Auth.: ORS 678.385
Stats. Implemented: ORS 678.375 & 678.385
Proposed Amendments: 851-050-0131
Last Date for Comment: 6-19-03, 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, IV and V. The amendments add the April and May 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

Board of Optometry
Chapter 852

Date:	Time:	Location:
5-30-03	1:30 p.m.	1st Floor Conf. Rm. Morrow Crane Bldg. Salem, OR

Hearing Officer: Joan P. Miller, O.D., Pres.
Stat. Auth.: ORS 683 & 182
Stats. Implemented: ORS 683.070, 683.100, 683.120, 683.270, 182.466, 182.462(1) & (2)
Proposed Amendments: 852-005-0005, 852-010-0025, 852-010-0080, 852-050-0005, 852-050-0006, 852-070-0040
Last Date for Comment: 5-30-03
Summary: 852-005-0005 - Establishes budget for 2003-2005 biennium. 852-010-0025, 852-010-0080, 852-050-0005, 852-050-0006 - Implements changes in fees. 852-070-0040 - Implements changes in fees.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: David W. Plunkett
Address: Board of Optometry, 3218 Pringle Rd. SE - Suite 270, Salem, OR 97302-6306
Telephone: (503) 373-7721, ext. 23

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Capitol Planning Commission
Chapter 110

Date:	Time:	Location:
5-15-03	3 p.m.	Hearing Rm. D State Capitol Bldg. Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 183.341, 276.028 & 276.043
Stats. Implemented: ORS 276.034(1)
Proposed Amendments: 110-060-0010, 110-060-0015
Last Date for Comment: 5-15-03
Summary: The rule amendment relates to the revision of the Oregon State Fair and Exposition Center Master Plan and Developments Standards for the Fairgrounds. The rule revises the currently adopted Master Plan of Development, adopted by the Capitol Planning Commission in 1982, and puts in its place a new Area Plan and policies setting directions for future development and land uses at the Fairgrounds. It also amends the Development Standards for projects reviewed by the Capitol Planning Commission.

The Capitol Planning Commission will hold a public rulemaking hearing on May 15, 2003, at 3:00 pm in Hearing Room D at the State Capitol Building, 900 Court Street, Salem, Oregon.

The *Oregon State Fair and Exposition Center Area Plan - 2003* is available for public review during regular business hours at the Capitol Planning Commission Offices, 413 State Capitol, 900 Court Street, Salem, Oregon, or it may be viewed on the Commission's web site at www.cpc.state.or.us.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Douglas Capps
Address: Capitol Planning Commission, 895 Summer St. NE, Salem, OR 97310
Telephone: (503) 378-8163

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Columbia River Gorge Commission
Chapter 350

Date:	Time:	Location:
6-10-03	9 a.m.	Discovery Center 5000 Discovery Dr. The Dalles, OR

Hearing Officer: Staff
Stat. Auth.: ORS 196.150; Other Auth.: 16 U.S.C. § 554c(b), RCW 43.97.015
Stats. Implemented: ORS 196.150

Proposed Adoptions: 350-060-0042, 350-060-0045, 350-060-0055, 350-060-0075, 350-060-0205, 350-060-0240
Proposed Amendments: 350-060-0020, 350-060-0040, 350-060-0050, 350-060-0060, 350-060-0070, 350-060-0080, 350-060-0090, 350-060-0100, 350-060-0120, 350-060-0130, 350-060-0150, 350-060-0160, 350-060-0170, 350-060-0180, 350-060-0190, 350-060-0200, 350-060-0210, 350-060-0220
Proposed Repeals: 350-060-0140
Last Date for Comment: 6-2-03
Summary: Division 60 governs the Gorge Commission's procedure for hearing appeals of county land use decisions in the Columbia River Gorge National Scenic Area. The rule also specifies filing and other procedural requirements for appellant and other participants in an appeal. The proposed amendments incorporate changes identified by the Gorge Commission and users of the rules to clarify, simplify and expedite the process.

Significant changes include: allowing filing by fax for uncontested motions (350-060-0040(5)); allowing filing to be accomplished by mail, instead of by receipt at the Commission office (350-060-0040(5)); allowing shortened records as stipulated by parties (350-060-0060(1)(f)); requiring parties to note whether they believe the case could be resolved using ADR, in which case the Gorge Commission would facilitate ADR (350-060-0075); Clarifying the process for oral argument to provide a time for questions prior to argument, uninterrupted oral argument, and a time for questions after oral argument (350-060-0120(4)); A process for filing motions and responses to motions, and for expedited motions (350-060-0130); that Gorge Commission will issue orders on motions for intervention (350-060-0160(7)); allowing stipulated motions for extensions of time to be automatic for the first one, and presumed granted for all subsequent extensions (350-060-0190(4)-(6)); allowing for involuntary dismissal of an appeal by the Commission when the appeal is moot or not diligently prosecuted (350-060-0125); allowing a county to request a voluntary remand of a case under certain circumstances (350-060-0220(2)); A special process for filing of an appeal after expiration of the appeal period under certain extraordinary and rare circumstances (350-060-0240).

The Gorge Commission is especially interested in public comment concerning proposed rule 350-060-0240, including alternative means of addressing the problem identified in that rule.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Nancy Andring
Address: Columbia River Gorge Commission, 288 E. Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672
Telephone: (503) 493-3323

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Date:	Time:	Location:
6-10-03	9 a.m.	Discovery Center 5000 Discovery Dr. The Dalles, OR

Hearing Officer: Staff
Stat. Auth.: ORS 196.150; Other Auth.: 16 U.S.C. § 554c(b), RCW 43.97.015
Stats. Implemented: ORS 196.150
Proposed Adoptions: 350-070-0042, 350-070-0045, 350-070-0047, 350-070-0085, 350-070-0225
Proposed Amendments: 350-070-0000, 350-070-0020, 350-070-0040, 350-070-0050, 350-070-0060, 350-070-0070, 350-070-0080, 350-070-0090, 350-070-0110, 350-070-0120, 350-070-0130, 350-070-0140, 350-070-0150, 350-070-0160, 350-070-0170, 350-070-0190, 350-070-0200, 350-070-0210, 350-070-0220, 350-070-0230
Proposed Repeals: 350-070-0100, 350-070-0180
Last Date for Comment: 6-2-03
Summary: Division 70 governs the Gorge Commission's procedure for hearing appeals of land use decisions by the Commission's Executive Director. The rule also specifies filing and other procedural requirements for appellant and other participants in an appeal. The proposed amendments incorporate changes identified by the Gorge Commission and users of the rules to clarify, simplify and expedite the process.

Significant changes include: changing the role of the Executive Director from being a "party" to the appeal, to being the staff of the Commission; allowing filing by fax for uncontested motions (350-070-0040(6)); allowing filing to be accomplished by mail, instead of by receipt at the Commission office (350-070-0040(6)); requiring appellants to note whether they are willing to try ADR to settle the case, in which case the Gorge Commission would facilitate ADR (350-070-0085); including a process for filing motions and responses to motions, and for expedited motions (350-070-0120); revising the appeal hearing to resemble a local government de novo appeal hearing (350-070-0140); allowing any person to testify at the appeal hearing instead of only persons who have intervened; allowing intervention to participate in pre-hearing matters (350-070-0170); allowing stipulated motions for extensions of time to be automatic for the first one, and presumed granted for all subsequent extensions (350-070-0200(4)-(6)); allowing for involuntary dismissal of an appeal by the Commission when the appeal is moot or not diligently prosecuted (350-070-0225); allowing the Executive Director to request a voluntary remand of a case under certain circumstances and deleting the requirement that the Commission identify "error" in the Executive Director's decision. (350-070-0230).
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Nancy Andring
Address: Columbia River Gorge Commission, 288 E. Jewett Boulevard, P.O. Box 730, White Salmon, WA 98672
Telephone: (503) 493-3323

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Construction Contractors Board
Chapter 812

Date:	Time:	Location:
5-27-03	11 a.m.	West Salem Roth's IGA

Hearing Officer: Sydney Brewster
Stat. Auth.: ORS 87.093, 183.310-183.500, 183.415, 813.460, 670.310, 701.055, 701.075, 701.235, 701.280, 701.350 & 701.992
Stats. Implemented: ORS 87.093, 293.445, 670.410, 701.010, 701.013, 701.035, 701.055, 701.065, 701.075, 701.085, 701.102, 701.105, 701.115, 701.125, 701.130, 701.135, 701.140, 701.145, 701.147, 701.148, 701.225, 701.280, 701.350 & 701.355
Proposed Amendments: 812-001-0020, 812-002-0100, 812-002-0260, 812-002-0280, 812-002-0340, 812-002-0420, 812-002-0640, 812-003-0000, 812-003-0002, 812-003-0020, 812-003-0025, 812-003-0050, 812-004-0400, 812-006-0030, 812-008-0050, 812-008-0060, 812-008-0072, 812-008-0074, 812-008-0110, 812-010-0100
Last Date for Comment: 5-27-03
Summary: 812-001-0020 is amended to adopt the date (March 11, 2003) the form "Information Notice to Property Owners About Construction Responsibilities" was amended to correct the phone numbers listed in the form.

812-002-0100, 812-002-0260, 812-002-0280, 812-002-0340, 812-002-0420, 812-002-0640 and 812-003-0002 are amended to correct ORS cites.

812-003-0000 is amended for housekeeping purposes, corrects cites, deletes the Employment Department reference because they no longer use SIC codes and to require a flat reinstatement fee for all categories rather than the current two-tiered system which can be confusing. 812-003-0020 is amended to delete the reference to a statute that has been repealed. 812-003-0025 is amended to delete the reference to a notarized acknowledgment that is no longer required. 812-003-0050 is amended to correct the grammar.

812-004-0400 is amended to change the words "on-site investigation" to "on-site meeting".

812-006-0030 is amended to clarify how agency will publish passing rates of education providers.

812-008-0050 is amended to clarify the deadlines for passing all sections of the test. 812-008-0060 is amended to correctly renumber the section. 812-008-0072 and 812-008-0074 are amended to allow distance-learning (home study) courses for certified home inspectors continuing education units. 812-008-0110 is amended to clarify refunds for home inspector fees and to NSF check charges for home inspectors.

812-010-0100 is amended to change the words "on-site investigation" to "on-site meeting".

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

Rules Coordinator: Catherine Heine

Address: Construction Contractors Board, PO Box 14140, Salem, OR 97310

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

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Department of Administrative Services
Chapter 125

Date:	Time:	Location:
5-15-03	10:30 a.m.-12 p.m.	155 Cottage Street NE Conference Rm. A Salem, OR

Hearing Officer: Marscy Stone

Stat. Auth.: ORS 279.845(1) & 184.340

Stats. Implemented: ORS 279.015(1)(b) & 279.835-279.855

Proposed Adoptions: 125-055-0005, 125-055-0010, 125-055-0015, 125-055-0020, 125-055-0025, 125-055-0030, 125-055-0035, 125-055-0040, 125-055-0045

Proposed Repeals: 125-030-0015

Last Date for Comment: 5-16-03, 5 p.m.

Summary: These rules, as filed, repeal OAR 125-030-0015 in its entirety and adopt OAR chapter 125 division 055, sections 0005 through 0045 as permanent administrative rules Governing the Acquisition of Goods and Services from Qualified Rehabilitation Facilities in accordance as prescribed under ORS 279.835 to 279.855.

ORS 279.845(2) requires the Department of Administrative Services to establish and publish a list of sources or potential sources of products and services provided by qualified non-profit agencies for disabled individuals, known as Qualified Rehabilitation Facilities ("QRFs"), which the department "determines are suitable for procurement by public agencies" under a statutory set-aside program intended to encourage public agencies' acquisition of products and services provided by QRFs.

These rules, as filed, prescribes standards for the department's determinations and assure consistency in the department's decision-making when making QRF eligibility, suitability, and pricing determinations and to establish predictability for both QRFs and private vendors in decisions concerning whether a particular product or the services of a particular provider either will be acquired under the set-aside program, or competitively procured under the public contracting laws.

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

Rules Coordinator: Mary Unger

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

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

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Department of Administrative Services,
Human Resource Services Division
Chapter 105

Date:	Time:	Location:
5-16-03	1:30 p.m.	155 Cottage Street NE Conference Rm. A Salem, OR

Hearing Officer: Shelli Honeywell

Stat. Auth.: ORS 240.145(3)

Stats. Implemented:

Proposed Amendments: 105-010-0000

Last Date for Comment: 5-21-03

Summary: 105-010-0000 - Definitions for Chapter 105 went through a complete review. The definitions that were not applicable to OAR Chapter 105 were deleted. Definitions that are used in OAR Chapter 105 were reviewed and updated if applicable. For clarification, several new definitions were added.

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

Rules Coordinator: Mary Unger

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

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

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Department of Agriculture
Chapter 603

Date:	Time:	Location:
5-21-03	9 a.m.	635 Capitol St. NE Hearings Room Salem, OR

Hearing Officer: Kathryn L. Alvey

Stat. Auth.: ORS 634.322(6) & 634.026(1)(e)

Stats. Implemented: ORS 634

Proposed Adoptions: 603-057-0378

Last Date for Comment: 6-4-03

Summary: 603-057-0378 - Sets limitations on the locations, or sites, where pesticide products containing the active ingredient clopyralid may be applied or used. Identifies which of these products may be registered for distribution within Oregon during 2003. Establishes labeling requirements for these products to obtain registration in 2004 and subsequent years.

**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

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Date:	Time:	Location:
5-22-03	10 a.m.	Agriculture Bldg. 635 Capitol St. NE Room B Salem, OR

Hearing Officer: Ron McKay

Stat. Auth.: ORS 561 & 596

Stats. Implemented: ORS 561.510, 596.020, 596.341, 596.351 & 596.355

Proposed Adoptions: 603-011-0376

Last Date for Comment: 6-5-03

Summary: 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.

**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

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Date:	Time:	Location:
6-4-03	10 a.m.	Oregon Dept. of Agriculture 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Linday Horst, ODA, Ranei Nomura, DEQ

Stat. Auth.: ORS 468.020, 468B & 2001 OL ch. 248 (HB 2156)

Stats. Implemented: ORS 468.005, 468.065, 468B.005, 468B.015, 468B.035, 468B.050, 468B.200 - 468B.230 & 2001 OL ch. 248 (HB 2156)
Proposed Adoptions: 340-051-0007, 603-074-0012, 603-074-0014, 603-074-0018
Proposed Amendments: 340-045-0015, 340-045-0033, 340-051-0005, 340-051-0010, 340-051-0015, 340-051-0020, 340-051-0025, 340-051-0030, 340-051-0050, 340-051-0055, 340-051-0060, 340-051-0065, 340-051-0070, 340-0451-0075, 340-051-0080, 603-074-0010, 603-074-0020, 603-074-0040, 603-074-0060, 603-074-0070, 603-074-0080
Last Date for Comment: 6-6-03, 5 p.m.
Summary: For DEQ, this proposal would do the following:

• Consistent with federal National Pollutant Discharge Elimination System (NPDES) permit program regulations, amend OAR 340-045-0015 to allow the Director to designate an animal feeding operation as a significant contributor of pollutants needing an NPDES permit pursuant to 40 CFR §122.23(c).

• Amend OAR 340-045-0033 to adopt a National Pollutant Discharge Elimination System NPDES general permit for Confined Animal Feeding Operations (CAFOs). This general permit was developed jointly with the Oregon Department of Agriculture (ODA). ODA is also proposing to adopt this permit through rulemaking (OAR 603-074-0014).

• Adopt OAR 340-051-0007 to clarify design, construction, operation, maintenance, and plan review requirements for CAFO waste control facilities and operations consistent with OAR 603-074-0018. OAR 603-074-0018 is currently being proposed for rule adoption by ODA.

• Amend OAR 340-051-0010 to clarify that "Department" when reviewing CAFO plans means either the Oregon Department of Environmental Quality or Oregon Department of Agriculture, revise the definition of "CCAFO" to be consistent with the definition in OAR 603-074-0010(3), and change the term "waste control facility" to "waste water control facility" and modify its definition to be consistent with ORS.

• Amend OAR 340-051-0015, 0020, and 0050 to use the term "waste water control facility" instead of "waste control facility."

• Amend OAR 340-051-0005, 0015, 0020, 0025, 0030, 0050, 0075 and 0080 to use the term "confined animal feeding operation(s)" instead of "confined animal feeding or holding facilities and operations," "confined feeding or holding operation(s)," "confined animal feeding and (or) holding operation(s)," and "confined feeding or holding facilities."

• Potentially amend OAR 340-045-0015 and 0030 and 340-051-0005, 0010, 0015, 0020, 0025, 0030, 0050, 0055, 0060, 0065, 0070, 0075, and 0080 to make terminology consistent with OAR 603-074 and federal concentrated animal feeding operation regulations (68 FR 7175 (February 12, 2003 Federal Register, Vol. 68, No. 29, pp. 7175-7274)).

For ODA, this proposal would do the following:

• Adopt 603-074-0012 and 603-074-0014 to outline the procedures for applying for the NPDES permit being adopted by 0014.

• Adopt 603-074-0018 to clarify design, construction, operation, maintenance, and plan review requirements for CAFO waste control facilities and operations are consistent with OAR 340-051-0007, which is being proposed for adoption by DEQ.

• Amend 603-074-0010, 0020, 0040, 0060, 0070, and 0080 to make terminology consistent with OAR 340-051 and 340-045, and with federal concentrated animal feeding operations regulations (68 FR Federal Register, Vol. 68, No. 29, pp. 7175-7274 (February 12, 2003)).

To submit comments or request additional information, please contact Ranei Nomura at DEQ, 811 SW 6th Ave., Portland, OR 97204, toll free in Oregon at 800-452-4011 or (503) 229-5657, nomura.ranei@deq.state.or.us, or (503) 229-5408 fax, or Lynda Horst at ODA, 635 Capitol St. NE, Salem, OR 97301, (503) 986-4700, lhorst@oda.state.or.us or visit ODA's website at //www.oda.state.or.us
**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

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Stat. Auth.: ORS 561.190 Other Auth. OAR 603-073-0030 - 603-073-0040
Stats. Implemented: ORS 564.010 et seq.
Proposed Amendments: 603-073-0070
Last Date for Comment: 5-30-03
Summary: Editorial corrections.
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 Consumer and Business Services, Building Codes Division
Chapter 918

Date:	Time:	Location:
5-20-03	9:30 a.m.	1535 Edgewater NW Salem, OR 97304

Hearing Officer: Richard Rogers
Stat. Auth.: ORS 455.020
Stats. Implemented: ORS 455.020
Proposed Amendments: 918-460-0015
Last Date for Comment: 5-23-03, 5 p.m.
Summary: Amends the Oregon Structural Specialty Code with an anticipated effective date of October 1, 2003.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Louann P. Rahmig
Address: Department of Consumer and Business Services, Building Codes Division, P.O. Box 14470, Salem, OR 97309
Telephone: (503) 373-7438

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

Date:	Time:	Location:
5-15-03	9 a.m.	350 Winter Street Conference Rm. E Salem, OR

Hearing Officer: Dale Laswell
Stat. Auth.: ORS 646.191(3)
Stats. Implemented: ORS 646.191(3)
Proposed Amendments: 440-035-0070
Last Date for Comment: 5-16-03
Summary: The Administrator intends to allow certified associations to be granted an initial grant of $5,000 and an opportunity to apply for subsequent grants from the funds remaining in the Sellers of Travel program until the balance is exhausted.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Berri Leslie
Address: Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7478

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Department of Environmental Quality
Chapter 340

Date:	Time:	Location:
5-15-03	5-7 p.m.	2146 NE Fourth Bend, OR

5-15-03	4-6 p.m.	10 S Oakdale Medford, OR
5-19-03	7-9 p.m.	500 E Fourth Ave. Eugene, OR
5-20-03	6-8 p.m.	811 SW Sixth Ave. Portland, OR
5-28-03	6-8 p.m.	10901 Island Ave. La Grande, OR

Hearing Officer: Thane Jennings, Wayne Kauzlarich, Gary Andes, Audrey O'Brien, Peter Brewer
Stat. Auth.: ORS 468.035, 468A.010(1) & 468A.015
Stats. Implemented:
Proposed Adoptions: 340-246-0010, 340-246-0030, 340-246-0050, 340-246-0070, 340-246-0090, 340-246-0110, 340-246-0130, 340-246-0150, 340-246-0170, 340-246-0190, 340-246-0210, 340-246-0230
Last Date for Comment: 5-30-03, 5 p.m.
Summary: The Department of Environmental Quality proposes to establish an Oregon Air Toxics Program to reduce releases of harmful air pollutants not addressed by other regulations. The Department took public comment on these rules in August, 2002, but delayed adoption. The Department is now re-proposing the rules with changes in response to the first set of comments. Central to the program is an innovative approach to reduce Oregonians' exposure to toxic air pollutants through community-based planning. The proposed rules establish a framework the Department will follow to determine concentrations of concern for air pollutants, to identify geographic areas with the highest risk of harmful health effects from these air toxics, and to develop and implement plans to reduce the release of these chemicals. This approach and the goals contained in these proposed rules are consistent with the federal Urban Air Toxics Strategy. The proposed rules also provide criteria for developing strategies to reduce emissions from a source or groups of similar air pollutant sources. Further, the proposed rules address the rare cases of individual industrial sources of toxic air emissions that are not otherwise addressed by the program but have the potential to cause harm to public health.

To submit comments or request additional information, please contact Sarah Armitage at the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011 or (503)229-5186, e-mail: armitage.sarah@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

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Date:	Time:	Location:
5-15-03	10 a.m.	811 SW 6th Ave. Rm. 3A Portland, OR 97204
5-16-03	10 a.m.	Jackson Co. Courthouse 10 S. Oakdale Medford, OR 97501

Hearing Officer: Bruce Arnold, Ted Wacker
Stat. Auth.: ORS 468A.380(1)(c)
Stats. Implemented: ORS 468A.365
Proposed Adoptions: 340-256-0357, 340-256-0358
Proposed Amendments: 340-256-0010, 340-256-0300, 340-256-0320
Last Date for Comment: 5-21-03
Summary: The rule proposal would establish two new emissions testing options for the residents of the Medford and Portland vehicle emissions testing areas. The first would offer On-Road Clean Screening of vehicles that uses either:

• Optical remote sensing methods by observing vehicle emissions as vehicles drive by at random on the road, or
• Broadcast on-board diagnostic (remote OBD) information sent from the vehicle to the Department, while it is being driven.

In either approach, if the Department finds the vehicle has clean emissions, the vehicle is not required to have a traditional vehicle emissions test.

The second option would be to allow vehicle owners to test their own vehicles using optical remote sensing, remote OBD or direct cable connected OBD testing methods. DEQ proposes to establish these test lanes at posted locations in the Portland and Medford areas. The proposed test lanes will be unmanned and operational 24 hours a day and 7 days a week.

These rules, if adopted, will be submitted to the U.S. Environmental Protection Agency as a revision to the Oregon State Implementation Plan (340-200-0040) as required by the federal Clean Air Act.

To submit comments or request additional information, please contact Jerry Coffer at the Department of Environmental Quality (DEQ), 1240 SE 12th Avenue, Portland, OR 97202, toll free in Oregon at 800-452-4011 or 503-731 3050, ext 229, coffer.jerry@deq.state.or.us, 503-731-3269 fax, or visti DEQ's website //www.deq.state.or.us/news/index.asp
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Rachel Sakata
Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
Telephone: (503) 229-5659

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Date:	Time:	Location:
6-4-03	10 a.m.	Oregon Dept. of Agriculture 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Linday Horst, ODA, Ranei Nomura, DEQ
Stat. Auth.: ORS 468.020, 468B & 2001 OL ch. 248 (HB 2156)
Stats. Implemented: ORS 468.005, 468.065, 468B.005, 468B.015, 468B.035, 468B.050, 468B.200 - 468B.230 & 2001 OL ch. 248 (HB 2156)
Proposed Adoptions: 340-051-0007, 603-074-0012, 603-074-0014, 603-074-0018
Proposed Amendments: 340-045-0015, 340-045-0033, 340-051-0005, 340-051-0010, 340-051-0015, 340-051-0020, 340-051-0025, 340-051-0030, 340-051-0050, 340-051-0055, 340-051-0060, 340-051-0065, 340-051-0070, 340-0451-0075, 340-051-0080, 603-074-0010, 603-074-0020, 603-074-0040, 603-074-0060, 603-074-0070, 603-074-0080
Last Date for Comment: 6-6-03, 5 p.m.
Summary: For DEQ, this proposal would do the following:
• Consistent with federal National Pollutant Discharge Elimination System (NPDES) permit program regulations, amend OAR 340-045-0015 to allow the Director to designate an animal feeding operation as a significant contributor of pollutants needing an NPDES permit pursuant to 40 CFR §122.23(c).
• Amend OAR 340-045-0033 to adopt a National Pollutant Discharge Elimination System NPDES general permit for Confined Animal Feeding Operations (CAFOs). This general permit was developed jointly with the Oregon Department of Agriculture (ODA). ODA is also proposing to adopt this permit through rulemaking (OAR 603-074-0014).
• Adopt OAR 340-051-0007 to clarify design, construction, operation, maintenance, and plan review requirements for CAFO waste control facilities and operations consistent with OAR 603-074-0018. OAR 603-074-0018 is currently being proposed for rule adoption by ODA.
• Amend OAR 340-051-0010 to clarify that "Department" when reviewing CAFO plans means either the Oregon Department of Environmental Quality or Oregon Department of Agriculture, revise

the definition of "CCAFO" to be consistent with the definition in OAR 603-074-0010(3), and change the term "waste control facility" to "waste water control facility" and modify its definition to be consistent with ORS.

• Amend OAR 340-051-0015, 0020, and 0050 to use the term "waste water control facility" instead of "waste control facility."

• Amend OAR 340-051-0005, 0015, 0020, 0025, 0030, 0050, 0075 and 0080 to use the term "confined animal feeding operation(s)" instead of "confined animal feeding or holding facilities and operations," "confined feeding or holding operation(s)," "confined animal feeding and (or) holding operation(s)," and "confined feeding or holding facilities."

• Potentially amend OAR 340-045-0015 and 0030 and 340-051-0005, 0010, 0015, 0020, 0025, 0030, 0050, 0055, 0060, 0065, 0070, 0075, and 0080 to make terminology consistent with OAR 603-074 and federal concentrated animal feeding operation regulations (68 FR 7175 (February 12, 2003 Federal Register, Vol. 68, No. 29, pp. 7175-7274)).

For ODA, this proposal would do the following:

• Adopt 603-074-0012 and 603-074-0014 to outline the procedures for applying for the NPDES permit being adopted by 0014.

• Adopt 603-074-0018 to clarify design, construction, operation, maintenance, and plan review requirements for CAFO waste control facilities and operations are consistent with OAR 340-051-0007, which is being proposed for adoption by DEQ.

• Amend 603-074-0010, 0020, 0040, 0060, 0070, and 0080 to make terminology consistent with OAR 340-051 and 340-045, and with federal concentrated animal feeding operations regulations (68 FR Federal Register, Vol. 68, No. 29, pp. 7175-7274 (February 12, 2003)).

To submit comments or request additional information, please contact Ranei Nomura at DEQ, 811 SW 6th Ave., Portland, OR 97204, toll free in Oregon at 800-452-4011 or (503) 229-5657, nomura.ranei@deq.state.or.us, or (503) 229-5408 fax, or Lynda Horst at ODA, 635 Capitol St. NE, Salem, OR 97301, (503) 986-4700, lhorst@oda.state.or.us or visit ODA's website at //www.oda.state.or.us

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

Rules Coordinator: Rachel Sakata

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

Telephone: (503) 229-5659

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Department of Fish and Wildlife
Chapter 635

Date:	**Time:**	**Location:**
6-6-03	8 a.m.	Red Lion Pendleton 304 SE Nve Ave. Pendleton, OR 97801

Hearing Officer: Fish and Wildlife Commission

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

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

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

Last Date for Comment: 6-6-03

Summary: Establish 2003 controlled hunt tag numbers for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer, and elk. Set quotas for cougar season. Change bag limits from one buck to one deer in certain eastern Oregon units in the general archery season consistent with Oregon's Mule Deer Management Plan. Establish rules for evidence of sex requirements and importation of hunter killed cervids for 2003-04 seasons.

Establish 2004 hunting regulations for game mammals, including season dates, open area, location of cooperative travel management areas, and other rules including general hunting, landowner preference, emergency hunt, and controlled hunting regulations. These proposals will be presented in principle to the Oregon Fish and Wildlife Commission in June 2003 and again for adoption in October 2003.

**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) 872-527, ext. 5447

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Department of Human Services,
Child Welfare Programs
Chapter 413

Date:	**Time:**	**Location:**
5-20-03	1:30 p.m.	Room 137A Human Services Bldg. 500 Summer St. NE Salem, OR

Hearing Officer: Barbara Carranza

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.112, 109.610 - 109.640, 184.805, 409.050, 418.205 - 418.325, 418.746 - 418.755, 419B.004 - 419B.045, 419B.150 - 419B.171 & 419B.190

Proposed Adoptions: 413-015-0100 - 413-015-0130, 413-015-0200 - 413-015-0225, 413-015-0300 - 413-015-0310, 413-015-0400 - 413-015-0405, 413-015-0500 - 413-015-0515, 413-015-0600 - 413-015-0635, 413-015-0700 - 413-015-0755, 413-015-0800, 413-015-0900 - 413-015-0905, 413-015-1000

Proposed Repeals: 413-020-0275, 413-020-0285, 413-020-0300 - 413-020-0390, 413-020-0400 - 413-020-0430, 413-030-0100 - 413-030-0130

Last Date for Comment: 5-27-03

Summary: The Department of Human Services Child Welfare Program is planning to adopt Child Protective Services (CPS) rules that emphasize the identification of safety threats to children in reviewing information received by the department alleging child abuse. A guided assessment process has been developed to improve consistency in gathering information and making assignments for CPS assessments. These rules require specific time lines for seeing a child face-to-face to assess child safety and to develop a child safety plan when child safety threats are present. These rules will result in more timely initiation of CPS assessments for children who are potentially unsafe. These rules address determining protective capacities of parents and caregivers and the use of Team Decision Meetings with families to develop safety plans for children. The new rules include substantial changes to current rules regarding screening and assessment of alleged child abuse. Rules that currently address other CPS issues such as cross reporting, working with other entities, interviewing, photographing and document, medical examinations, and dispositions have had some revisions and have been moved to Chapter 413 division 015 so that all of these related CPS issues can be filed in a logical order within new division 015. The introduction rule and the child safety assessment and child safety planning rules are new rules. A copy of the draft rules can be accessed at the child welfare policy website: http://www.dhs.state.or.us/policy/childwelfare/drafts/index.htm

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

Rules Coordinator: Barbara J. Carranza

Address: Department of Human Services, Child Welfare Programs, 550 Summer St. NE, Salem, OR 97301-1067

Telephone: (503) 945-6649

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

Date:	Time:	Location:
5-21-03	10:30 a.m.-12 p.m.	Room 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0040, 410-121-0061, 410-121-0150, 410-121-0155, 410-121-0190, 410-121-0200, 410-121-0220
Last Date for Comment: 5-21-03
Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0040 is being revised to adjust language regarding prior authorization (PA) on PPI drug classes to reflect current Practitioner Managed Prescription Drug Plan category and PA requirements. Because Centers for Medicare and Medicaid Services (CMS) will not extend the Oregon waiver to perform cost avoidance, rule 410-121-0150 is being revised to require pharmacy providers to bill private insurance prior to billing DHS. "Paper billers" will be required to use 5.1 universal claims forms. Rule 410-121-0155 is being revised to require providers to obtain PA for multiple-source brand name drugs (effective June 15, 2003) and to provide pill splitters to clients so they can take 1/2 doses as required (effective June 1, 2003). Other rules listed above are being revised to eliminate the use of pharmacy billing forms and require the use of 5.1 universal claims forms.
**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 97301-0177
Telephone: (503) 945-6927

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Date:	Time:	Location:
5-21-03	10:30 a.m.-12 p.m.	Room 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.110 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-141-0000, 410-141-0120, 410-141-0160, 410-141-0200, 410-141-0263, 410-141-0300
Last Date for Comment: 5-21-03
Summary: OMAP will revise Rules 410-141-0000, 410-141-0120, 410-141-0160, 410-141-0200, 410-141-0263 and 410-141-0300 to be in compliance with the finalized Balanced Budget Act (BBA) Code of Federal Register (CFR) changes which are effective August 1, 2003.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-0177
Telephone: (503) 945-6927

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Stat. Auth.: ORS 409.010, 409.110 & SB 5548 2003
Stats. Implemented: ORS 414.065
Proposed Adoptions: 410-120-1195
Last Date for Comment: 5-21-03
Summary: The General Rules program administrative rules govern Office of Medical Assistance Program (OMAP) Payments for services provided to clients. Effective April 1, 2003, OMAP temporarily adopted rule 410-120-1195 to provide a limited prescription drug benefit to certain individuals. Certain individuals previously participating in the medically needy program, identified with specific health related conditions as outlined in a budget note attached to SB 5548, were made eligible for a State-funded limited prescription drug benefit until June 30, 2003. This is the Notice to permanently adopt this rule. Please note: this action is only for the purpose of maintaining a record of history. Limited benefit expired on June 30, 2003, as indicated in the rule.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Departmental Administration and Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301-0177
Telephone: (503) 945-6927

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Department of Human Services,
Public Health
Chapter 333

Date:	Time:	Location:
5-27-03	10 a.m.	Washington Outpatient Center Conf. Rm. A Grants Pass, OR
5-28-03	2 p.m.	Deschutes Co. Commissioner's Office Board Hearing Rm. Bend, OR
5-29-03	12 p.m.	Lane Co. Public Service Bldg. Bob Straub Rm. Eugene, OR
6-2-03	10 a.m.	Portland State Office Bldg. Rm 140 Portland, OR

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 475.300-475.346
Stats. Implemented: ORS 475.300-475.346
Proposed Amendments: 333-008-0010, 333-008-0020, 333-008-0040
Last Date for Comment: 6-2-03
Summary: Provides a registration fee reduction for Oregon Medical Marijuana Program applications. The $150.00 registration fee for a new application remains unchanged. The registration fee for renewal applications is reduced from $150.00 to $100.00. For those persons who can demonstrate current, valid eligibility in the Oregon Health Plan, the proposed new or renewal application fee is established as $50.00. Defines the conditions under which application fee reductions and eligibility for the Oregon Health Plan will be accepted.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Jana Fussell
Address: Department of Human Services, Public Health, 800 NE Oregon St., Portland, OR 97232
Telephone: (503) 731-4000

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Department of Human Services,
Self-Sufficiency Programs
Chapter 461

Date:	Time:	Location:
5-23-03	10 a.m.	Rm. 352 500 summer St. NE Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 411.060, 411.070 & 414.042
Stats. Implemented: ORS 411.060, 411.070 & 414.042
Proposed Amendments: 461-110-0015, 461-115-0540, 461-135-0725, 461-145-0025, 461-160-0015
Last Date for Comment: 5-23-03

Summary: Rule 461-110-0115 is being amended to incorporate new definitions used in determining eligibility for the OSIP-EPD and OSIPM-EPD programs.

Rule 461-115-0540 is being amended to incorporate changes to the certification period for the OSIP-EPD and OSIPM-EPD programs.

Rule 461-135-0725 is being amended to define the amount of time a person may maintain OSIP-EPD and OSIPM-EPD eligibility after they lose their employment.

Rule 461-145-0025 is being amended to redefine Approved Accounts.

Rule 461-160-0015 is being amended to reduce the countable resource limit to $5,000.

(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:
5-27-03	10 a.m.	Rm. 251 500 Summer St. NE Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 410.070, 411.060, 411.070, 411.816, 414.042 & 418.100; Other Auth.: FS Act of 1977, Sec. 5(a); 7 CFR 273.2(j); 42 CFR 435.726; USDA Admin. Notices 99-56, 00-14 and 03-12; 42 U.S.C. 1396p(b)(2)(A); ORS 411.795, 412.600, 413.200, 414.105(2); guidance from Dept. of Justice; Sec. 1115 of the Social Security Act
Stats. Implemented: ORS 411.010, 411.060, 411.070, 411.095, 411.122, 411.700, 411.795, 411.816, 412.600, 413.200, 414.042, 414.105, 415.105 & 418.100
Proposed Amendments: 461-025-0310, 461-025-0315, 461-120-0345, 461-125-0370, 461-135-0505, 461-135-0832, 461-135-0835, 461-135-1110, 461-135-1120, 461-145-0080, 461-145-0460, 461-145-0540, 461-145-0820, 461-145-0830, 461-155-0150, 461-160-0120, 461-160-0600, 461-160-0610, 461-160-0620, 461-175-0010, 461-180-0090, 461-195-0511
Last Date for Comment: 5-27-03
Summary: OAR 461-025-0310 is being amended by adding a new section which states positively that there is no right to a contested case hearing to dispute a program requirement established by law and gives three examples of issues not subject to hearing. The Department is also changing Division to Department to reflect the reorganization of the Department of Human Services.

OAR 461-025-0315 is being amended to make it clearer that the rule authorizes an expedited hearing over continuation of benefits only to the extent required by ORS 411.095(2). This rule is also being amended to make it more clear that the decision notice informs the client of the extent to which there is a right to hearing.

OAR 461-120-0345 is being amended to clarify that clients eligible for the Citizen/Alien Waived Emergent Medical (CAWEM) program are exempt from referral to the Family Health Insurance Assistance Program (FHIAP). This rule already exempts American Indians and Alaska Natives and should have exempted CAWEM clients as well when it was last revised February 2003. This amendment simply clarifies CAWEM clients are not to be referred because FHIAP eligibility rules cannot include coverage to individuals who do not meet citizenship or alien requirements.

OAR 461-125-0370 is being amended to clarify policy with respect to the Code of Federal Regulations that make disability determinations made by the Social Security Administration binding on the State of Oregon.

OAR 461-135-0505 is being amended to change the administrative rule number that links to the 100% federal poverty level (FPL) standard. This 100% FPL link creates the 185% figure used for categorical eligibility for the Food Stamp program.

OAR 461-135-0832 is being amended to define Disabled Child for purposes of estate recovery program.

OAR 461-135-0835 is being amended to replace the reference to a surviving child that is permanently and totally disabled with a reference to no surviving disabled child.

OAR 461-135-1110 is being amended to include the 2002-2003 school year income requirements for a Pell grant. To be eligible as a student of higher education for the Oregon Health Plan (OHP), an individual must meet the income requirements for a Pell grant by having an expected family contribution (EFC) less than the income amount determined by the U.S. Department of Education.

OAR 461-135-1120 is being amended to clarify that the Oregon Health Plan (OHP) premium amount charged under the OHP-OPU medical program will change during the certification period when a health plan new/non-categorical (HPN) client is no longer a member of the benefit group.

OAR 461-145-0080 is being amended to specify that payments from non-custodial parents that should go to a TANF financial group member are to be counted as unearned income.

OAR 461-145-0460 is being amended to clarify how the proceeds from the sale of a home are treated for an OHP client.

OAR 461-145-0540 is being amended to clarify that not only the clients personal needs allowance, but also any applicable room and board standard, must be distributed first from an income cap trust in order to calculate the correct client liability payment. Also, a pooled trust must be created for a disabled client before the client reached the age of 65, and the non-profit association must pool trust accounts for purposes of investment and management.

OAR 461-145-0820 is being amended to reference the calculation of deemed income from a noncitizens sponsor to OAR 461-145-0840 and to show how resources from a noncitizens sponsor are calculated as deemed resources for a noncitizen for the different programs administered by DHS.

OAR 461-145-0830 is being amended to clarify under what circumstances the assets of a noncitizens sponsor will not be deemed available to the noncitizens household. For example, deeming does not apply when there is no legally binding affidavit of support signed; the sponsor is on SSI, TANF or FS; the sponsored noncitizen becomes a naturalized citizen; or the noncitizen worked or can be credited with 40 qualifying quarters of work.

OAR 461-155-0150 is being amended to clarify the child care monthly payment rate is the maximum monthly subsidy payment per child.

OAR 461-160-0120 is being amended to correct a rule citation.

OAR 461-160-0600 is being amended to remove the reference to Oregon Health Plan (OHP) recipients who have a community spouse in the determination of awarding waivered services or institutional care. OHP clients will no longer be eligible for Department-paid services under the Home and Community Based Waiver or in a nursing facility or other institutional setting beyond what is offered under the Oregon Health Plan standard benefit package.

OAR 461-160-0610 is being amended to remove the ability of those who are eligible for the Oregon Health Plan (OHP) standard package to have their income treated as if they were eligible for Medicaid as an aged or disabled individual. As with OAR 461-160-0600, OHP standard recipients will not continue to receive the services described under the Department's Home and Community Based Waiver nor institutional setting beyond the OHP standard package.

OAR 461-160-0620 is being amended to bring the rule into compliance with Section 1924(d)(3)(B) of the Social Security Act which indexes the community spouse income allowance for those married individuals who receive home and community based services or serv-

ices in an institutional setting. The index is based on 150% of the federal poverty level for a couple and is effective July 1st each year.

OAR 461-175-0010 is being amended to more clearly describe a decision notice and so that the Department is not obliged to provide in decision notices—other than in the Food Stamp program—the name and phone number of a Department employee or the identity of the office for the client to contact for additional information.

OAR 461-180-0090 is being amended to clarify that for American Indians and Alaska Natives, the effective date for starting medical benefits can be as early as their initial date of request, even if that individual is an OHP-OPU client. Beginning March 1, 2003, all OHP-OPU clients medical start date is the first of the month following the month in which the Department makes the eligibility determination. This amendment clarifies that even if the individual is an OHP-OPU client, if he or she is an American Indian or Alaska Native, their medical start date can be as early as their initial date of request.

OAR 461-195-0511 is being amended to add and clarify exceptions in considering child care overpayment situations. Situations involving more than one full-time provider or child care provided under contract can result in an overpayment.

(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:
5-28-03	10 a.m.	Rm. 254 500 Summer St. NE Salem, OR

Hearing Officer: Anita Staver
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Proposed Amendments: 461-193-0246
Last Date for Comment: 5-28-03
Summary: Rule 461-193-0246 is being amended to correct language of the minimum attendance criteria for participants in the NAES employment project to be eligible for a training incentive.

(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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Stat. Auth.: ORS 25.020 & 409.021
Stats. Implemented: ORS 25.020, 25.080, 25.650, 416.417 & 416.430
Proposed Adoptions: 461-200-2080, 461-200-3290
Proposed Amendments: 461-200-3020, 461-200-3100, 461-200-4560, 461-200-5240
Last Date for Comment: 6-7-03
Summary: The proposed adoption of OAR 461-200-2080 provides that the Child Support Program Director will decide which office or agency is responsible for providing services on a case when there is a conflict of interest or a perceived conflict of interest and the local offices cant reach an agreement or the constituent disagrees with the local decision.

The proposed adoption of OAR 461-200-3290 is to clarify that when a notice and finding has been issued for a child in the care and custody of the state, but the child leaves care or custody prior to the entry of a final order, the administrator or a hearings officer should enter a final order which is contingent on the child residing in a state financed or supported residence, shelter or other facility. The proposed rule also clarifies that when a child has left the states care and custody, the administrator will sign a certificate establishing any periods of non-residency and satisfying the order for such periods of non-residency.

The proposed amendments to OAR 461-200-3020 are to clarify the processes parties must follow to request additional parentage tests under ORS 109.252. Parties may request additional tests, but must select an accredited laboratory and advance the costs of the tests. Once an accredited laboratory is selected and the costs of the tests have been paid to the laboratory, the administrator or the court must order the additional tests. The amendments also include provisions for what happens when a party fails to appear for the additional tests, depending on whether the party failing to appear was the party requesting additional tests. If the party failing to appear is the party who requested additional tests, an order establishing paternity will be entered. If the party failing to appear is not the party who requested additional tests, the administrator will take appropriate steps to compel obedience to the order for additional tests.

The proposed amendment to OAR 461-200-3100 is to clarify that the provisions of the rule, which provides that an order establishing paternity will be entered when a party fails to comply with a parentage test order, do not apply to orders for additional parentage tests, except when the party failing to appear for the additional tests is the party who requested the additional tests.

The proposed amendment to OAR 461-200-4560 is to allow for an objection to credit reporting if the obligor is not delinquent in making payments under a support order. The amendment gives obligors the opportunity to contest credit reporting on the basis that the arrearage on the case is due strictly to past support in an order or an upward modification.

The proposed amendment to OAR 461-200-5240 is to allow the credit for support payments not made to the Division of Child Support process to apply to orders of another state if neither the state which issued the order nor the obligees home state has an active IV-D accounting case.

Rules Coordinator: Michelle Kutten
Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E48, Salem, OR 97301-1066
Telephone: (503) 986-6240

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

Date:	Time:	Location:
5-22-03	3 p.m.	500 Summer Street NE Room 137D Salem, OR

Hearing Officer: Pam Rouske
Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 410
Proposed Amendments: 411-015-0000, 411-015-0005, 411-015-0010, 411-015-0015, 411-015-0100
Last Date for Comment: 5-23-03
Summary: These amendments clarify definitions and further support the actual intent of current policy; establish a more stable foundation for understanding eligibility for services and institute consistency statewide in the assessment process. The amendments also indicate client assessed priority levels the Department is currently able to serve based on program reductions required to maintain a balanced budget for the biennium, pursuant to ORS 183.335(5), the

mandates of HB 5100 and further directives from the 2003 Legislative Emergency Board. These amendments are proposed to become effective June 4, 2003 following the June 3, 2003 expiration of temporary amendments to these rules.
**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 Justice
Chapter 137

Date:	Time:	Location:
5-22-03	11 a.m.	1215 State Street Third Floor Salem, OR 97301

Hearing Officer: Esin Onart, Assistant Attorney General
Stat. Auth.: ORS 180.140(5), 279.051(1), 279.712(2)(g) & 279.712(i)
Stats. Implemented: ORS 180.140(5), 279.051(1), 279.712(2)(g), 279.712(2)(i) & 200.035
Proposed Adoptions: 137-009-0060, 137-009-0065, 137-009-0100, 137-009-0120
Proposed Amendments: 137-009-0000, 137-009-0005, 137-009-0010, 137-009-0045
Proposed Repeals: 137-009-0015, 137-009-0020, 137-009-0025, 137-009-0030, 137-009-0035, 137-009-0040, 137-009-0055, 137-009-0000(T) - 137-009-0120(T)
Last Date for Comment: 5-23-03
Summary: The rules set forth in this notice govern the screening and selection procedures to establish personal services contracts with individuals and entities to provide attorney services required by law to be performed by the Attorney General.

The documents related to this rulemaking are available for public review during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Department of Justice, 1215 State Street, 3rd Floor, Salem, OR 97301.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97305
Telephone: (503) 378-6313

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

Stat. Auth.: ORS 476.030
Stats. Implemented: ORS 476.410
Proposed Amendments: 837-061-0015
Last Date for Comment: 6-30-03
Summary: 1) Allows Oregon fire service more selection and application of hose appliances. 2) Corrects referenced standard edition error in 837-061-0015(3)(a).

Copies of the proposed rules may be obtained by contacting the Office of State Fire Marshal at 503-373-1540, extension 269.
Rules Coordinator: Glen Andreassen
Address: Oregon State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305
Telephone: (503) 373-1540, ext. 210

Department of Transportation,
Board of Maritime Pilots
Chapter 856

Date:	Time:	Location:
5-21-03	10 a.m.	800 N.E Oregon St. Rm. 120C Portland, OR 97232

Hearing Officer: Staff
Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Proposed Adoptions: 856-030-0001, 856-030-0002
Proposed Amendments: 856-030-0000, 856-030-0010, 856-030-0015, 856-030-0020
Last Date for Comment: 5-21-03
Summary: Establishes new rules requiring pilot organizations to provide notice for board evaluation of any proposed major capital improvements before seeking funding through pilotage rates. Establishes new rules requiring pre-petition notice to board of intent to request change in pilotage rates. Makes amendments to the process for filing petitions and responses, and for minor housekeeping.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Susan Johnson
Address: Department of Transportation, Board of Maritime Pilots, 800 NE Oregon St. #15, Suite 507, Portland, OR 97232
Telephone: (503) 731-4044

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

Stat. Auth.: ORS 184.616, 184.619 & 806.150
Stats. Implemented: ORS 806.150 & 809.450
Proposed Amendments: 735-050-0080, 735-050-0090
Last Date for Comment: 6-10-03
Summary: OAR 735-050-0080 establishes how DMV will implement the program to randomly sample compliance with financial responsibility requirements. The proposed amendment allows DMV to select a person for verification if there is no evidence on the vehicle record that financial responsibility requirements are being met. The proposed amendment also includes suspension of driving privileges of a person who provides false information as part of the financial responsibility verification process. Other proposed amendments are for clarity, including amendment of OAR 735-050-0090, relating to the post-imposition hearing.

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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Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 807.400, 809.310, 809.320 & 809.410
Proposed Amendments: 735-070-0004, 735-070-0010
Last Date for Comment: 6-10-03
Summary: OAR 735-070-0004 establishes what suspension or cancellation action DMV will take under ORS 809.310. The proposed amendments specify that DMV will cancel all driver licenses, driver permits or identification cards for which the person gave false information or is not entitled. The proposed amendments also authorize DMV to use its full discretionary suspension authority as provided in ORS 809.310. If DMV suspends driving privileges and the right to apply for driving privileges due to commission of an offense listed in ORS 809.310(3), the right to apply for an identification card will also be suspended. Likewise, if the commission of the offense under ORS 809.310(3) involved an identification card, not only will DMV suspend the person's identification card and right to apply for

an identification card, but also suspend the person's driving privileges and right to apply for driving privileges. OAR 735-070-0010 establishes how a person may reinstate or regain driving privileges, a driver license, driver permit or an identification card following a cancellation. The proposed amendments simplify the rule to make it clear that reinstatement requirements are the same for all cancellations.

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,
Motor Carrier Transportation Division
Chapter 740

Stat. Auth.: ORS 184.616, 814.619 & 823.007

Stats. Implemented: ORS 823.007

Proposed Adoptions: 740-020-0010, 740-020-0020

Last Date for Comment: 6-10-03

Summary: ORS 823.007(1) requires certain employees of the department to file an employee statement of pecuniary interest in motor carriers. ORS 823.007(2) requires the department to determine by rule what constitutes "a function concerning economic regulation of motor carriers" for the purpose of identifying employees subject to ORS 823.007(1). OAR 740-020-0010 is proposed for this purpose. OAR 740-020-0020 is proposed to establish when an employee may be dismissed for failure to comply with ORS 823.007(1).

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

Rules Coordinator: Brenda Trump

Address: Department of Transportation, Motor Carrier Transportation Division, 1905 Lana Ave. NE, Salem, OR 97314

Telephone: (503) 945-5278

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Department of Transportation,
Rail Division
Chapter 741

Date:	**Time:**	**Location:**
5-21-03	9 a.m.	ODOT Bldg., Rm. 122 135 Capitol St. NE Salem, OR

Hearing Officer: Craig Reiley

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: 6-10-03

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. A notice of this rulemaking was previously published March 1, 2003 and is being republished to provide for a public hearing.

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

Telephone: (503) 945-5278

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Stat. Auth.: ORS 184.616, 184.619, 823.011 & 824.045; Other Auth. 49 CFR part 659

Stats. Implemented: ORS 824.045

Proposed Adoptions: 741-060-0100, 741-060-0110

Proposed Amendments: 741-060-0010, 741-060-0020, 741-060-0030, 741-060-0040, 741-060-0050, 741-060-0060, 741-060-0070, 741-060-0080, 741-060-0090

Last Date for Comment: 6-10-03

Summary: These rules establish the system safety criteria to be met by rail fixed guideway systems in the State of Oregon. The proposed amendments clarify the application of standards, and add and clarify definitions. The proposed amendments also modify the system safety program plan requirements to specify the timeframe to revise a plan to comply with necessary modifications; timeframe for conducting ongoing internal safety audits; and the inclusion of a drug and alcohol testing program. The proposed amendment to OAR 741-060-0080 changes the requirement for reporting an accident from within 24 hours to within six hours. The proposed amendment to OAR 741-060-0090 requires a final written report of all security breaches from the end of each month, rather than the end of each quarter. A new rule s proposed to specify that each transit system must establish an hours-of-service policy, the maximum hours of service, exceptions and record keeping. In addition, Chapter 522, Oregon Laws 2001 (SB 323) established a stable revenue source to support this program, which is mandated by both federal and state law. SB 323 requires ODOT to set annual fees for operators of rail fixed guideway systems to defray the cost of the safety program. It also requires ODOT to establish by rule the manner and timing of collection of the fee. A new rule is proposed to establish payment of the annual fee for safety oversight. Other changes are made for clarification and housekeeping purposes.

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

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Employment Department
Chapter 471

Date:	**Time:**	**Location:**
5-16-03	1 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657 & 657.610

Proposed Amendments: 471-010-0054

Proposed Repeals: 471-010-0054(T)

Last Date for Comment: 5-16-03, 5 p.m.

Summary: The Employment Department is proposing to amend the Customer Information rule to clarify who is allowed to witness signatures on the Department's 1826 "Release of Information Authorization" form.

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

Rules Coordinator: Richard L. Luthe

Address: Employment Department, 875 Union St. NE - Room 312, Salem, OR 97311
Telephone: (503) 947-1724

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Date:	Time:	Location:
5-16-03	10 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe
Stat. Auth.: ORS 657
Stats. Implemented: ORS 657, 657.280 & 657.610
Proposed Amendments: 471-040-0021
Last Date for Comment: 5-16-03, 5 p.m.
Summary: The Employment Department is proposing to amend the "Postponement of Hearing" rule to clarify the procedure for allowing a postponement.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Richard L. Luthe
Address: Employment Department, 875 Union St. NE - Room 312, Salem, OR 97311
Telephone: (503) 947-1724

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Insurance Pool Governing Board
Chapter 442

Stat. Auth.: ORS 735.734
Stats. Implemented: ORS 735.720-735.740
Proposed Amendments: 442-004-0010
Proposed Repeals: 442-004-0010(T)
Last Date for Comment: 5-22-03
Summary: To retain membership of current legal non-citizens.
Rules Coordinator: Karla Messer-Holt
Address: Insurance Pool Governing Board, 625 Marion St. NE, Salem, OR 97310
Telephone: (503) 373-1692

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Landscape Contractors Board
Chapter 808

Date:	Time:	Location:
5-16-03	1:30 p.m.	Roth's Red Lion Inn North 1415 NE Third Street Bend, OR

Hearing Officer: Carl Cory
Stat. Auth.: ORS 670, 671 & 182.462
Stats. Implemented: ORS 671 & 182
Proposed Adoptions: 808-001-0008
Last Date for Comment: 5-22-03
Summary: 808-001-0008 - Adopt 2003-05 Biennium Budget
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 235 Union St. NE, Salem, OR 97301
Telephone: (503) 986-6561

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Oregon Liquor Control Commission
Chapter 845

Date:	Time:	Location:
5-22-03	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton
Stat. Auth.: ORS 471, 471.030, 471.730(1) & 471.730(5)
Stats. Implemented: ORS 471.730(7), 471.750(1) & 471.750(2)
Proposed Amendments: 845-007-0035, 845-015-0165, 845-015-0130, 845-015-0175, 845-015-0177
Proposed Repeals: 845-015-0178
Last Date for Comment: 6-5-03
Summary: The Commission proposes to make minor amendments to several rules. The amendments address what may be advertised in a retail liquor store, how a store may be advertised, and clarify language regarding rebates.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Katie Hilton
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355
Telephone: (503) 872-5004

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Date:	Time:	Location:
7-2-03	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Katie Hilton
Stat. Auth.: ORS 471, 471.030, 471.730(1) & 471.730(5)
Stats. Implemented: ORS 471.380
Proposed Amendments: 845-009-0020
Last Date for Comment: 7-16-03
Summary: This rule sets out the Commission's bases for denial of a Service Permit. We need to make housekeeping-type changes to the rule to bring it into line with the standards of the newly adopted license refusal rule, OAR 845-005-0327.
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Katie Hilton
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355
Telephone: (503) 872-5004

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Stat. Auth.: ORS 471, 471.030, 471.040, 471.730(1), 471.730(5), 471.730(6) & 183.341(2)
Stats. Implemented: ORS 183.090, 183.341(2), 183.430(2), 183.435, 471.312(1), 471.360, 471.375, 471.380(2), 471.730(6), 471.730(7), 471.542 & 471.398(5)
Proposed Amendments: 845-003-0270, 845-003-0670, 845-007-0015, 845-007-0020, 845-009-0005, 845-009-0010, 845-009-0015, 845-009-0085, 845-009-0105, 845-013-0070, 845-013-0075
Last Date for Comment: 5-21-03
Summary: The Commission needs to make housekeeping-type changes to eleven rules. The changes correct outdated statutory references and correct long-standing minor errors in rules.
Rules Coordinator: Katie Hilton
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222-7355
Telephone: (503) 872-5004

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Oregon Public Employees Retirement System
Chapter 459

Date:	Time:	Location:
5-21-03	2 p.m.	Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Holly Hayes
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.005-238.715
Proposed Adoptions: 459-005-0180
Last Date for Comment: 6-10-03
Summary: This proposed rule states the agency's presumption that actions taken by members, beneficiaries, or alternate payees are valid. If a person wants to challenge such actions based on an allegation that a member, beneficiary, or alternate payee was incapacitated, the proposed rule provides direction on how such a question will be resolved.

In addition to the public hearing, the Board invites public comment on the proposed rules at its meeting on June 10, 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 of sent via email to holly.v.hayes@ state.or.us
**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Holly Hayes
Address: Oregon Public Employes' Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7690

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Stat. Auth.: ORS 238.465(3), 238.650; Other Auth.: OR Rules of Civil Procedure 55D
Stats. Implemented: ORS 238.465
Proposed Amendments: 459-045-0040
Last Date for Comment: 6-27-03
Summary: The amendment to this rule is necessary to assure compliance with the Oregon Rules of Civil Procedure. A copy of the proposed rule modification is available to any person upon request.
Rules Coordinator: Holly Hayes
Address: Oregon Public Employes' Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7690

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Stat. Auth.: ORS 238.630 & 238.650
Stats. Implemented: ORS 238.630(3)(g)
Proposed Adoptions: 459-005-0058, 459-005-0060
Last Date for Comment: 5-30-03
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.

At its meeting on March 31, 2003, the PERS Board voted to amend proposed rules OAR 459-005-0058 and 459-005-0060 to conform with the language of HB 2004. On the assumption that the language relating to these proposed rules in the enrolled version of HB 2004 would not be substantially different from that in the current draft version, the proposed rules have been amended to reflect the provisions of HB 2004 as currently drafted. However, the Board will not adopt these proposed rules until HB 2004 has been passed, and the proposed rules will be amended if necessary to reflect the final version HB 2004 prior to adoption.

The public comment period is being extended to give interested parties the opportunity to comment on the new versions of the proposed rules.

Copies of the proposed rules are available to any person upon request. The rules are also available at http://www.pers.state.or.us/TOC.html. Public comment may be mailed to the above address or sent via email to holly.v.hayes@state.or.us
Rules Coordinator: Holly Hayes
Address: Oregon Public Employes' Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7690

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Stat. Auth.: ORS 238.470; Other Auth.: OR Rules of Civil Procedure 55D
Stats. Implemented: ORS 243.401-243.507
Proposed Amendments: 459-050-0230
Last Date for Comment: 6-27-03
Summary: The amendment to this rule is necessary to assure compliance with the Oregon Rules of Civil Procedure. A copy of the proposed rule modification is available to any person upon request.
Rules Coordinator: Holly Hayes
Address: Oregon Public Employes' Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7690

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Oregon State Lottery
Chapter 177

Stat. Auth.: ORS 461, OR Const., Article XV, § 4(4)
Stats. Implemented: ORS 461.200
Proposed Adoptions: 177-099-0095
Proposed Amendments: 177-099-0000, 177-099-0020, 177-099-0030, 177-099-0040, 177-099-0050, 177-099-0080, 177-099-0090, 177-099-0100
Last Date for Comment: 5-30-03
Summary: Keno is being modified to include a "Keno Multiplier" as an optional game feature. It multiplies certain prizes won. The annuitized prize payment option is being amended to change to annuity period from 20 years to 25 years, and redefine the lump sum payment option. The other proposed amendments are housekeeping and grammar.

No changes are being made to OAR 177-099-0010 (Game Description) or OAR 177-099-0060 (Ticket Validations).
Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Stat. Auth.: ORS 461, OR Const., Article XV, § 4(4)
Stats. Implemented: ORS 461.200
Proposed Amendments: 177-085-0005, 177-085-0035
Last Date for Comment: 6-13-03
Summary: OAR 177-085-0005 (Definitions) and OAR 177-085-0035 (Prize Payment) are being amended to conform the Powerball rules to the model rules of the Multi State Lottery Association (MUSL). The amendments consist of removing provisions that initiated the bonus prize only when the jackpot was projected by MUSL to reach a new high.
Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Oregon State Marine Board
Chapter 250

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented:
Proposed Amendments: 250-020-0204
Last Date for Comment: 5-30-03
Summary: The Board intends to amend a "slow-no wake" speed on the Wood River from June 1, 1998 through May 30, 2001 because the dates are past. This is a housekeeping amendment.
Rules Coordinator: Jill E. Andrick
Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065
Telephone: (503) 373-1405, ext. 243

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Oregon University System,
Oregon Institute of Technology
Chapter 578

Date:	**Time:**	**Location:**
6-5-03	11 a.m.	Mt. Bailey College Union Bldg.

Hearing Officer: Kathleen Coupé
Stat. Auth.: ORS 351
Stats. Implemented: ORS 351.070
Proposed Amendments: 578-041-0030, 578-072-0030
Last Date for Comment: 6-2-03

Summary: 578-041-0030 - Amends the Schedule of Special Institution Fees and Charges. Amendments allow for increases, revisions, additions or deletions of special course fees and general service fees for fiscal year 2003-04. The schedule of subject fees may be obtained from the Oregon Institute of Technology Business Office.

578-072-0030 - Initiates changes in parking permits and regulations for the 2003-04 fiscal year.

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

Rules Coordinator: Kathleen Coupé

Address: Oregon State System of Higher Education, Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, OR 97601-8801

Telephone: (541) 885-1104

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Oregon University System,
Oregon State University
Chapter 576

Date:	Time:	Location:
5-29-03	12 p.m.	206 Memorial Union OSU

Hearing Officer: Bonnie Dasenko

Stat. Auth.: ORS 351.070, 352.360 & OAR 580-040-0010

Stats. Implemented: ORS 351.070 & 352.360

Proposed Amendments: 576-010-0000

Last Date for Comment: 5-30-03

Summary: The proposed amendment will set fees and charges for designated services at Oregon State University for fiscal year 2003-204. The rule states: "The University hereby adopts by reference a list of fees and charges for fiscal year 2003-2004. The List of Fees and Charges is available at the Oregon State University Business Office and the Oregon State University Library, and is hereby incorporated by reference in the rule."

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

Rules Coordinator: Bonnie Dasenko

Address: Oregon State System of Higher Education, Oregon State University, 600 Kerr Administration Building, Corvallis, OR 97331-2128

Telephone: (541) 737-2474

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Date:	Time:	Location:
5-29-03	12:15 p.m.	206 Memorial Union OSU

Hearing Officer: Bonnie Dasenko

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 576-025-0020

Last Date for Comment: 5-30-03

Summary: The rule provides that non-immigrant international students will be enrolled automatically in and billed for a health insurance plan made available through Oregon State University. Affected students may apply for a waiver if they can demonstrate they have comparable insurance.

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

Rules Coordinator: Bonnie Dasenko

Address: Oregon State System of Higher Education, Oregon State University, 600 Kerr Administration Building, Corvallis, OR 97331-2128

Telephone: (541) 737-2474

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Date:	Time:	Location:
5-29-03	12:30 p.m.	206 Memorial Union OSU

Hearing Officer: Bonnie Dasenko

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 576-020-0010

Last Date for Comment: 5-30-03

Summary: The proposed change amends the University student records rule to add date(s) of degree(s) to the definition of directory information.

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

Rules Coordinator: Bonnie Dasenko

Address: Oregon State System of Higher Education, Oregon State University, 600 Kerr Administration Building, Corvallis, OR 97331-2128

Telephone: (541) 737-2474

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Public Utility Commission
Chapter 860

Stat. Auth.: ORS 183.756, 757 & 759

Stats. Implemented: ORS 756.040, 757.600-757.667, 759.045 & 759.105

Proposed Amendments: 860-022-0040, 860-022-0042, 860-034-0330, 860-037-0555

Last Date for Comment: 5-21-03

Summary: Members of Oregon Telecommunications Association believe OARs 860-022-0042 and 860-034-0330 do *not* allow telecommunication utilities and cooperatives to tell their customers the amounts of city fees and taxes that are under the cap and included in their monthly charges. Staff believes the rules do not prohibit the companies from describing the charges and, therefore, *do* allow the companies to describe these amounts on their customers' bills.

However, staff believes the rules can be clarified to eliminate any misunderstanding. Staff also believes such changes should be made for public utilities. Therefore, staff proposes to add the following section to the end of OARs 860-022-0040, 860-022-0042, 860-034-0330 and 860-036-0745: "The amount allowed as an operating expense may be described on customers' bills in a manner determined by the [company]." Note that OAR 860-037-0555 for wastewater utilities is currently under revision in docket AR 405. Therefore, staff's proposed clarification will be added to 860-037-0555 in AR 405.

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

Date:	Time:	Location:
5-15-03	1:30 p.m.	Room 140 Portland State Office Bldg. 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Stephen S. Walters, Chair

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270(3)

Proposed Amendments: 462-220-0040

Last Date for Comment: 5-15-03

Summary: Removes the June 30, 2003, sunset provision.

Rules Coordinator: Carol N. Morgan

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

Telephone: (503) 731-4052

Board of Architect Examiners
Chapter 806

Adm. Order No.: BAE 2-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 7-1-03
Notice Publication Date: 2-1-03
Rules Amended: 806-001-0003
Subject: This rule is amended to adopt the Oregon State Board of Architect Examiners' 2003-2005 biennial budget; with an expenditure limit of $650,200.
Rules Coordinator: Carol Halford—(503) 378-4270

806-001-0003
Biennial Budget

Pursuant to the provisions of SB 1127, following a public hearing, the Board adopts by reference the Oregon State Board of Architect Examiners 2003-2005 Biennial Budget of $650,200 covering the period July 1, 2003, through June 30, 2005. The Board Administrator will amend budgeted accounts as necessary, within the approved budget of $650,200, for the effective operation of the Board. The Board will not exceed the approved budget amount without amending this rule, notifying holders of licenses, and holding a public hearing. Copies of the budget are available from the Board's office.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 291 superseded by SB 546, 1997
Hist.: AE 1-1997(Temp), f. & cert. ef. 7-25-97; AE 3-1997, f. & cert. ef. 12-11-97; BAE2-1998, f. & cert. ef. 6-22-98; BAE 2-1999, f. & cert. ef. 5-25-99; BAE 2-2001, f. 6-6-01, cert. ef. 7-1-01; BAE 2-2003, f. 4-11-03 cert. ef. 7-1-03

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Adm. Order No.: BAE 3-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03
Notice Publication Date: 2-1-03
Rules Amended: 806-010-0080, 806-010-0110
Subject: To clarify/simplify the rules to allow for architectural firms to become registered with the Oregon Board. This eliminates unnecessary restorations to those firms who meet the definition of ORS 60.701.
Rules Coordinator: Carol Halford—(503) 378-4270

806-010-0080
Architectural Firms

(1) As used in this rule and OAR 806-010-0105 (Schedule of Actual Fees), architectural firm is defined as any firm that provides architectural services in the State of Oregon including:

(a) Corporations;

(b) Partnerships;

(c) Limited liability companies;

(d) Individuals practicing under an assumed business name.

(2) Prior to practicing architecture in this state, an architectural firm must comply with ORS 671.041 and apply for and obtain registration with the Board.

(3) Application for registration of an architectural firm, whose existence required registration with the state in which it was formed, must include a certificate of existence, not more than 60 days old, from the Secretary of State of the state in which the architectural firm was formed.

(4) Upon receipt of an application with the supporting documentation and proof of compliance with ORS 671.041 and OAR 806-010-0110, and upon receipt of the registration fee, the Board will issue a certificate of registration which will remain in effect until January 31st of the year following the date initial certification is granted. (See Schedule of Actual Fees, OAR 806-010-0105(5)).

(5) On or before January 31st of each year, an architectural firm shall submit an application for annual renewal accompanied by the renewal fee (See Schedule of Actual Fees, OAR 806-010-0105). The renewal application shall list:

(a) The names and addresses of all directors, members, or partners in the firm.

(b) Whether the directors, members, or partners are registered or licensed architects or engineers; and

(c) The jurisdictions in which the directors, members, or partners are registered or licensed.

(6) An architectural firm may renew firm registration not later than 30 days after the renewal deadline without penalty, upon submission of the renewal application and payment of the renewal fee.

(a) An architectural firm may renew firm registration between 31 and 60 days after the renewal deadline, upon submission of the renewal application, payment of the renewal fee, plus a penalty equal to the amount of the renewal fee.

(b) On the 61st day following the renewal deadline, the architectural firm who fails to pay the renewal fee plus the penalty shall forfeit the firm registration and shall not practice architecture under the firm name.

Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.041
Hist.: AE 11, f. 2-15-74, ef. 3-11-74; AE 16(Temp), f. & ef. 5-17-77; AE 17, f. & ef. 9-22-77; AE 2-1978, f. & ef. 2-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1987, f. & ef. 3-30-87; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 4-2001, f. & cert. ef. 10-4-01; BAE 1-2002, f. & cert. ef. 4-30-02; BAE 3-2003, f. & cert. ef. 4-11-03

806-010-0110
Corporate/Assumed Business Names

(1) Architects practicing under an "assumed" or a "corporate" name must file such name annually with the Board as part of their firm renewal application process. Such filing shall include any changes to the names of all stockholders of the corporation or all principals or partners of the firm or partnership.

(2) A name is considered to be "assumed" when it is other than the real and true name of each person conducting business in this state or having an interest therein (e.g., J. L. Smith; Smith, Smith and Jones; Architectonics and the like).

(3) When wording is used in a corporate or assumed business name to suggest the existence of additional principals, directors, partners or associates, the reference must be to existing persons currently within the firm, corporation, limited liability company, or partnership.

(a) Wording which suggests the existence of additional principals within the meaning of this rule includes "Associated," "Group," "& Associates," "Partners" and the like.

(b) Use of such wording requires at least one architect and at least two design-related professionals associated with the firm as principals, partners, or employees in order to be registered by the Board as a firm allowed to provide architectural services.

(4) The corporate or assumed business name must identify the corporation, firm or partnership as being engaged in the practice of architecture (e.g., "Architects," "An Architectural P.C.," "Architecture and Planning" and the like).

(5) The corporate or assumed business name may not include the surname of any person not presently or previously associated in the practice of architecture or engineering in any jurisdiction recognized by NCARB with the named entity or its members or predecessors.

(6) An architectural firm, corporation (professional or general); limited liability company; or partnership may not use the position or title "Principal" or "Partner" unless the title refers to a person who has a financial interest in the entity.

(7) An architectural firm may use the plural form of architect in the firm name only if the firm has more than one architect, actively registered in any state or territory of the United States or Canadian Province, associated with the firm as principals, partners, or employees; and at least one of the architects is actively registered in Oregon under ORS 671.010 to 671.220.

Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.041
Hist.: AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 6-2001, f. & cert. ef. 10-24-01; BAE 8-2002, f. & cert. ef. 10-8-02; BAE 3-2003, f. & cert. ef. 4-11-03

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Board of Geologist Examiners
Chapter 809

Adm. Order No.: BGE 1-2003
Filed with Sec. of State: 4-4-2003
Certified to be Effective: 4-4-03
Notice Publication Date: 2-1-03
Rules Repealed: 809-050-0030
Subject: A review of this rule by the Board's Attorney confirmed that this public testimony rule limited the rights of citizens to given personal opinions allowed under the Oregon and United States Constitution. Following a lengthy review of this rule in conjunction with

a compliance case, the Board chose to repeal this rule in a special board meeting held November 2002. A Public Rules Hearing was held on March 10, 2003 to allow personal testimony.
Rules Coordinator: Susanna R. Knight—(503) 566-2837

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Board of Naturopathic Examiners
Chapter 850

Adm. Order No.: BNE 2-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03
Notice Publication Date: 3-1-03
Rules Adopted: 850-010-0055
Subject: This rule is needed to allow NDs licensed in other jurisdictions meeting standards as set in this rule, to temporarily practice in Oregon in assisting the Department of Health, should the Governor of Oregon declare a disaster emergency.
Rules Coordinator: Anne Walsh—(503) 731-4045

850-010-0055
Practice in Oregon by Out-of-State Naturopathic Physicians in the Event of an Emergency

(1) In the event of a disaster emergency declared by the Governor of Oregon, the Board of Naturopathic Examiners shall allow Naturopathic physicians licensed in another state to provide medical care in Oregon under special provisions during the period of the declared disaster emergency, subject to such limitations and conditions as the Governor may prescribe.

(2) The out-of-state physician shall submit to the Board the following information:

(a) Verification of a permanent, current, and unrestricted license to practice naturopathic medicine in another state which is not the subject of a pending investigation by a state medical board, or another state or federal agency; and

(b) Current federal or state photo identification, i.e., driver license or passport.

(3) The requirement for completing and submitting the information to the Board is waived if the physician is a member of the National Disaster Medical System (NDMS) under the Office of Emergency Preparedness, U.S. Department of Health and Human Services, and submits to the Board a copy of his/her NDMS photo identification.

(4) The physician shall provide the Board documentation demonstrating a request to provide medical care from a hospital, clinic or private medical practice, public health organization, EMS agency, or federal medical facility, or has otherwise made arrangements to provide medical care in Oregon as the result of the declaration of a disaster emergency.

(5) The physician shall not practice in Oregon under the special disaster emergency provisions beyond the termination date of the emergency. Practice in Oregon beyond the termination date of the declared disaster emergency requires licensure through the Board of Naturopathic Examiners.

Stat. Auth.: ORS 685 125
Stats. Implemented: ORS 685.160
Hist.:BNE 6-2002(Temp), f. & cert. ef. 12-6-02 thru 6-3-03; BNE 2-2003, f. & cert. ef. 4-11-03

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Bureau of Labor and Industries
Chapter 839

Adm. Order No.: BLI 2-2003
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 3-28-03
Notice Publication Date:
Rules Amended: 839-016-0750
Subject: The rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for specified residential projects for the dates specified.
Rules Coordinator: Marcia Ohlemiller—(503) 731-4212

839-016-0750
Residential Prevailing Wage Rate Determinations

(1) Pursuant to ORS 279.359, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the following residential rate determination(s) are the prevailing rates of wage for workers upon said public works project(s) for the period(s) of time specified:

(a) *Special Prevailing Wage Rate Determination for Residential Project, Superintendent's House, Project #2002-02* dated May 20, 2002 for the period May 23, 2002 through June 30, 2003.

(b) *Special Prevailing Wage Rate Determination for Residential Project, Wallowa Alpine Village, Project #2002-03* dated May 20, 2002 for the period May 23, 2002 through June 30, 2003.

(c) *Special Prevailing Wage Rate Determination for Residential Project, Sunset Meadows, Project #2002-04* dated June 19, 2002 for the period July 1, 2002 through June 30, 2003.

(d) *Special Prevailing Wage Rate Determination for Residential Project, Housing Authority of Portland, "NE 11th Ave," Project #2002-05* dated June 25, 2002 for the period July 1, 2002 through June 30, 2003.

(e) *Special Prevailing Wage Rate Determination for Residential Project, Housing Authority of Lincoln County, "Mariner Heights Apartments Rehab Project," Project #2003-01* dated March 17, 2003 for the period March 28, 2003 through June 30, 2003.

(f) *Special Prevailing Wage Rate Determination for Residential Project, Housing Authority of Portland, "Multnomah Manor," Project #2003-02* dated March 17, 2003 for the period March 28, 2003 through November 30, 2003.

(2) Copies of the rates referenced in section (1) of this rule 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 listed in the blue pages of the phone book. Copies may also 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) 731-4709.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 279.359
Stats. Implemented: ORS 279.359
Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02 cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03

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Adm. Order No.: BLI 3-2003
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03
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 April 1, 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).

(c) Amendment to Oregon Determination 2003-01 (effective April 1, 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 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; BLI 3-2003, f. & cert. ef. 4-1-03

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Capitol Planning Commission
Chapter 110

Adm. Order No.: CPC 1-2003(Temp)
Filed with Sec. of State: 3-19-2003
Certified to be Effective: 3-19-03 thru 9-14-03
Notice Publication Date:
Rules Amended: 110-060-0010, 110-060-0015
Subject: The rule amendment relates to the revision of the Oregon state Fair and Exposition Center Master Plan and Development Standards for the area. The rule revises the current Master Plan of Development by adopting a new plan and policies affecting future development and uses at the Oregon State Fairgrounds.

And also amends Development Standards for the Oregon State Fairgrounds.
Rules Coordinator: Douglas Capps—(503) 378-8163

110-060-0010
Oregon State Fair and Exposition Center Master Plan

The *Oregon State Fair and Exposition Center Area Plan 2003*, is hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.341, ORS 276.028 & ORS 276.043
Stats. Implemented: ORS 276.034(1)
Hist.: CPC 1-1982(Temp), f. & ef. 1-5-82; CPC 4-1982, f. & ef. 4-6-82; CPC 1-2003(Temp), f. & cert. ef. 3-19-03 thru 9-14-03

110-060-0015
Standards for Development in the Oregon State Fair and Exposition Center Area

The following standards for development shall apply to projects in the Oregon State Fair and Exposition Center Area:

(1) Set back requirements for buildings located in the Oregon State Fair and Exposition Center Area are as follows:

(a) From a street — A minimum depth of 20 feet;

(b) From other buildings — As required by the Oregon Structural Specialty Code and Fire and Life Safety Code;

(2) No building or other structure in the Oregon State Fair and Exposition Center Area shall exceed 70 feet in height.

(3) The maximum building coverage in the Oregon State Fair and Exposition Center area is 50 percent of the land area.

(4) Development within the Oregon State Fair and Exposition Center Area shall be landscaped in a manner protective of the surrounding community environment.

(5) Consistency with the *Oregon State Fair and Exposition Center Area Plan 2003*.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.341, ORS 276.028 & ORS 276.043
Stats. Implemented: ORS 276.034(1)
Hist.: CPC 1-1982(Temp), f. & ef. 1-5-82; CPC 4-1982, f. & ef. 4-6-82; CPC 1-2003(Temp), f. & cert. ef. 3-19-03 thur 9-14-03

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Department of Administrative Services
Chapter 125

Adm. Order No.: DAS 2-2003
Filed with Sec. of State: 4-7-2003
Certified to be Effective: 4-7-03
Notice Publication Date: 3-1-03
Rules Amended: 125-045-0160
Subject: 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—(503) 378-2349, ext. 320

125-045-0160
Terminal Dispositions of State Real Property Interests to Other Individuals or Entities

(1) **General Rule; Exceptions**.

(a) If a Disposing State Agency does not sell or transfer a State Real Property Interest to either a State Agency or a Political Subdivision pursuant to the provisions outlined above, then the Disposing State Agency may dispose of such State Real Property Interest to any other party subject to the rules and procedures set forth below.

(b) The provisions of OAR 125-045-0160 apply to sales and leases of State Real Property Interests only. Exchanges of Real Property Interests are excluded from this rule, provided that the State Real Property Interest is being transferred in exchange for a unique, specific parcel of real property desired by the Disposing State Agency in the conduct of its agency mission and the Division has been notified.

(2) **Right of First Refusal Determination**. Prior to proceeding with the public notice and solicitation procedures below, the Disposing State Agency shall determine, with the advice and consent of the Division, whether any party is entitled to a Right of First Refusal pursuant to OAR 125-045-0170 below. If a Right of First Refusal is granted, the provisions of OAR 125-045-0170 shall apply.

(3) Notice. The Disposing State Agency or the Division shall provide published notice of the proposed Terminal Disposition of the State Real Property Interest. Such notice shall be published in one or more newspapers of general circulation in the county or counties in which the State Real Property Interest is located, and in any other newspapers the Disposing State Agency or the Division deems advisable. The notice shall be published not less than once a week, for three successive weeks. The published notification shall include the following:

(a) A general description of the State Real Property Interest subject to Terminal Disposition, including a legal subdivision description, if any;

(b) The minimum asking price;

(c) The name and address of the person to contact to obtain any additional information concerning the State Real Property Interest;

(d) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which shall not be less than thirty (30) days from the date of the first notice;

(e) A requirement that a security deposit in the amount and form required by OAR 125-045-0160(4) shall be submitted with the Proposal;

(f) If applicable, a notice that the Terminal Disposition of the State Real Property Interest may be subject to a Right of First Refusal granted pursuant to OAR 125-045-0170 below; and

(g) A reservation of the right of the Disposing State Agency or the Division to accept or reject any Proposal; and

(h) Any other information the Disposing State Agency or the Division deems desirable.

(i) If the Appraised Fair Market Value is more than $100,000, the notice may also invite public comment on the values of the State Real Property Interest as set forth in OAR 125-045-0120(4) above.

(4) **Proposals for Purchase of Property**.

(a) All Proposals submitted in response to the published notice described in OAR 125-045-0160(3) above, shall be accompanied by a deposit, in the form of:

(A) A certified check; or

(B) Sufficient bond furnished by a surety company authorized to do business in this State, in favor of the State of Oregon, in a sum not less than ten percent (10%) of the total amount of the value of the Proposal.

(b) Deposits will be refunded to all unsuccessful Proposers after:

(A) The closing of the sale to a successful Proposer; or

(B) Rejection of all Proposals.

(c) Each Proposal shall clearly set forth the amount offered for the purchase of the State Real Property Interest, and shall include the following additional matters:

(A) Any conditions upon the Proposer's offer to acquire the State Real Property Interest;

(B) A detailed statement explaining Proposer's proposed use for the State Real Property Interest; and

(C) Any other information the Proposer believes is relevant to its Proposal.

(d) If the Disposing State Agency finds any Proposal to be ambiguous, it may request that the Proposer submit further information in order to clarify the Proposer's Proposal. If the Disposing State Agency does not request any such clarification, the ambiguous Proposal may be rejected.

(5) **Opening of Proposals**. After the date and time for submitting Proposals has passed, the Disposing State Agency shall open all Proposals that have been timely delivered and that have the required deposit. All responsive Proposals shall be evaluated by the Disposing State Agency and/or the Division in order to determine the Proposal most advantageous to the State. The determination of the most advantageous Proposal shall be final and conclusive and shall not be subject to review by any court.

(6) **Negotiations**. The Disposing State Agency shall notify the apparent successful Proposer and shall negotiate to determine if the transfer can be consummated. If such negotiations are unsuccessful, the Disposing State Agency shall notify the next highest ranking, acceptable Proposal and shall similarly attempt to negotiate the Terminal Disposition of the State Real Property Interest.

(7) **Sale or Other Transfer of State Real Property Interest**. If the Disposing State Agency and a Proposer reach a final agreement with regard to the disposal of the State Real Property Interest and (if required) such agreement is approved by the Attorney General pursuant to ORS 291.047, the State Real Property Interest shall be transferred to such successful Proposer in accordance with the terms of such agreement.

(8) **Rejection of All Proposals**. The Disposing State Agency, in its sole discretion, may reject any or all Proposals.

(9) **Continued Marketing of Real Property Interest After Rejection of All Proposals**. If all Proposals are rejected, the Disposing State Agency may market and sell the Real Property Interest in any manner the Disposing State Agency deems appropriate, including by and through a real estate licensee as set forth in ORS 696.007, provided that:

(a) If required by ORS 291.047, any resulting agreement of sale must be approved by the Attorney General; and

(b) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in OAR 125-045-0160(3) above, no agreement of sale may be accepted without again first publishing a public notice of sale and complying with the provisions of OAR 125-045-0160 et. seq.

Stat. Auth.: ORS 270.015(2) & ORS 270.100(1)(d)
Stats. Implemented: ORS 270.010, 270.110, 270.130, 270.135 & ORS 270.140
Hist.: DAS 5-2001, f. & cert. ef. 9-10-01; DAS 8-2002, f. & cert. ef. 12-27-02; DAS 2-2003, f. & cert. ef. 4-7-03

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Department of Agriculture
Chapter 603

Adm. Order No.: DOA 12-2003(Temp)
Filed with Sec. of State: 3-17-2003
Certified to be Effective: 3-17-03 thru 9-1-03
Notice Publication Date:
Rules Amended: 603-011-0265
Subject: This amendment provides additional safeguards to assure Oregon continues to maintain a Tuberculosis free classification as assigned by USDA-APHIS. The amendment provides alternatives to individuals who import feeder cattle from to meet Oregon's entry requirements.
Rules Coordinator: Sherry Kudna—(503) 986-4619

603-011-0265
Importation of Bovines; Tuberculosis

In addition to an import permit and other disease control requirements, the following requirements must be met regarding bovine tuberculosis. Cattle which have had physical contact within the past 12 months with cattle originating in Mexico must be treated as cattle originating in Mexico.

(1) Bovines originating from within the United States:

(a) Tuberculosis testing is not required for:

(A) Bovines originating from states classified USDA accredited-free of bovine tuberculosis. Such bovines must be born in or resident in such a state for at least the previous 12 months;

(B) Bovines originating from herds classified USDA accredited-free of bovine tuberculosis. The herd number and date of latest herd test must be shown on the health certificate.

(C) Bovines imported for slaughter:

(i) By direct delivery to a federally inspected slaughter establishment; or

(ii) By direct consignment to an auction market to be sold for slaughter only.

(D) Bovines of any breed, imported for feeding purposes from a state which is not classified USDA accredited-free of bovine tuberculosis:

(i) If the herd of origin is not under hold order, quarantine, or epidemiological study for tuberculosis, and has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months, and there has been no contact with any such heard which has; or

(ii) If they are consigned directly to an Oregon registered dry feedlot. On leaving the feedlot, bovines imported under this section must go to slaughter directly or through an auction market, to another registered dry feedlot, or out of state.

(E) Bovines of beef breeds imported for breeding purposes from a state which is not classified USDA accredited-free of bovine tuberculosis if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months and the herd of origin is not under hold order, quarantine, or epidemiological study for tuberculosis;

(F) Bovine of dairy breeds imported for breeding and/or dairy purposes from a state which is not classified USDA accredited-free of bovine tuberculosis if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months and the herd of origin is not under hold order, quarantine, or epidemiological study for tuberculosis.

(G) Bovines of beef or dairy breeds imported for breeding or dairy purposes from a state which is not classified USDA accredited-free of bovine tuberculosis and which has had a laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months, if the area or herd from which they originate has been exempted from testing by the Oregon State Veterinarian in consultation with livestock health officials of the state of origin.

(b) Tuberculosis testing is required for:

(A) Bovines of beef breeds imported for breeding purposes from a state which is not classified USDA accredited-free of bovine tuberculosis and which has had a laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months, except as exempted in paragraph (1)(a)(G) of this rule;

(B) Bovines of dairy breeds imported for breeding and/or dairy purposes from a state which is not classified USDA accredited-breed of bovine tuberculosis and which has had a laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous 12 months, except as exempted in paragraph (1)(a)(G) of this rule;

(C) A retest at 60 to 120 days from date of first test may in some cases be required. The imported bovines may be retested in the state of origin or imported into Oregon and held under quarantine subject to retest;

(D) Bovines imported as transient rodeo stock must have had one negative tuberculosis test within 12 months prior to entry.

(c) Appeals of exemption decisions: Appeals of exemption decisions made under paragraph (1)(a)(G) of this rule must be filed with the Director of the Oregon Department of Agriculture within 10 working days of the decision. Review will be completed within 10 working days of the appeal. Review will include consultation with at least the Oregon State Veterinarian, the USDA Area Veterinarian in Charge for Oregon, and livestock health officials of the exporting state or country.

(2) Bovines originating in Canada: The regulations for importation of cattle from within the United States shall apply to areas of equivalent tuberculosis classification status as determined by the Ministry of Agriculture of Canada.

(3) Bovines originating in Mexico:

(a) Sexually neutered cattle must:

(A) Bear official Mexican government identification; and

(B) Be negative to a tuberculosis test upon crossing the border into the United States; and

(C) If imported for feeding purposes, be imported under prior written agreement with the Oregon State Veterinarian directly to a "Tuberculosis Qualified Pasture" after proof is provided of a negative tuberculosis test administered no less than 60 days after the initial test and after importation into the U.S. Movement out of the TQP may be to another TQP, an Oregon Registered Dry Feedlot, direct to slaughter, or to an out of state destination.

The TQP must have fencing adequate to prohibit commingling with breeding animals; or

(D) If imported for rodeo and recreational purposes, be held separate and apart from native cattle and retested negative 60 to 120 days following the first test. Such cattle which have been resident in another state for more than 60 days shall require evidence of a second negative retest for tuberculosis prior to entry into Oregon.

(b) Sexually intact cattle must:

(A) Be negative to the tuberculosis test upon crossing the border into the United States; and

(B) Be retested negative within 60 to 120 days following the first test; and

(C) Be retested negative within 360 to 420 days following the first test; and

(D) Be held separate and apart from native cattle until completion of all tests; and

(E) Not be imported for feeding purposes.

(c) Cattle originating on Mexican dairies shall not be imported for any purpose.

Stat. Auth.: ORS 596.341
Stats. Implemented: ORS 596.341
Hist.: AD 890(20-68), f. 10-28-68, ef. 11-1-68; AD 1047(37-74), f. 9-20-74, ef. 10-11-74; AD 1108(29-76), f. & ef. 9-21-76; AD 3-1984, f. & ef. 1-20-84; AD 9-1993(Temp), f. & cert. ef. 7-23-93; AD 7-1994, f. & cert. ef. 7-12-94; DOA 12-2003(Temp), f. & cert. ef. 3-17-03 thru 9-1-03

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Adm. Order No.: DOA 13-2003(Temp)
Filed with Sec. of State: 3-27-2003
Certified to be Effective: 3-27-03 thru 7-16-03
Notice Publication Date:
Rules Amended: 603-011-0376
Rules Suspended: 603-011-0376(T)
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 Restricitions

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 in which a state or federal quarantine for Exotic Newcastle Disease exists.

(2) Items under restriction, except as specifically exempted in (3)(b) and (4)(b) below, include 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)(a) Except as exempted in (b) below, 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.

(b) From areas under state or federal quarantine for END, commercial pet birds, pet birds originating from USDA Quarantine Facilities and pet birds being individually imported, all of which have fulfilled all stipulations of USDA Policies for movement out of the quarantined areas, may be imported into Oregon subject to protocols established by the State Veterinarian.

(4)(a) Except as exempted in (b) below, 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

(b) Equipment used to house, water, feed, or care for commercial pet birds, pet birds originating from USDA Quarantine Facilities and pet birds being individually legally imported under authority of section (3)(b) above, all of which have fulfilled all stipulations of USDA Policies for movement out of the quarantined areas, may be imported into Oregon subject to protocols established by the State Veterinarian.

(5) Any commercial vehicle originating from an area under quarantine and which has transported feed, eggs, or equipment or other materials that could transmit Exotic Newcastle Disease must carry proof of the cleaning and disinfection of the vehicle and trailer performed immediately prior to traveling to Oregon. This proof must be provided in writing and demonstrate that the cleaning and disinfection was performed according to protocol established by the USDA.

(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 issued within twenty four (24) hours prior to departure for Oregon by an accredited veterinarian stating the birds are healthy and free of any signs of Exotic Newcastle Disease and do not originate from a quarantined area except as exempted in (3)(b) above, and an Oregon Import Permit number obtained from the office of the Oregon State Veterinarian. 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 until July 16, 2003.

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; DOA 13-2003(Temp), f. & cert. ef. 3-27-03 thru 7-16-03

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Adm. Order No.: DOA 14-2003(Temp)
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 3-28-03 thru 9-24-03
Notice Publication Date:
Rules Adopted: 603-057-0378
Subject: The temporary rule limits the locations, or sites, where pesticide products containing the active ingredient clopyralid may be applied or used. Identifies which of these products may be registered for distribution within Oregon for 2003.
Rules Coordinator: Sherry Kudna—(503) 986-4619

603-057-0378
Limitations on Pesticide Products Containing Clopyralid

(1) Any application or use of a pesticide product known to contain the active ingredient clopyralid to a location other than an agricultural site, forest site, right-of way site, golf course site, or non-turf area of a park or recreation site is prohibited. Regardless of application or use sites specified on individual product labels, no application or use may be made to lawn or turf areas such as residential lawns, commercial and public turf plantings, school grounds, parks, cemeteries or recreational areas other than golf courses.

(2) For the application or use of a pesticide product containing clopyralid on a site allowed by (1) above, all applicable label instructions must be followed. The providing of grass clippings from treated sites for use in compost is prohibited.

(3) Pesticide products known to contain the active ingredient clopyralid and having product labeling authorizing application or use on an agri-

cultural site, forest site, right-of way site, golf course site, or non-turf area of a park or recreation site, and on any other site, may be registered and distributed during 2003. For 2004 and subsequent years, product labeling must satisfy one of the two following requirements in order to be registered:

(a) Only specify one or more application or use sites allowed by (1) above; or

(b) Clearly and prominently, as determined by the department, specify that use in Oregon is limited to one or more of the application or use sites allowed by (1) above.

(4) Failure to comply with the prohibitions specified in (1) and (2) above, as determined by the Oregon Department of Agriculture, may be used as a basis for one or more of the following actions:

(a) To revoke, suspend or refuse to issue or renew the license or certification of an applicant, licensee or certificate holder in accordance with ORS 634.322(4);

(b) To impose a civil penalty, in accordance with ORS 634.900;

(c) To initiate and pursue any other action of an enforcement nature available through ORS 634.

Stat. Auth.: ORS 634.322(6), ORS 634.026(1e)
Stats. Implemented: ORS 634
Hist.: DOA 14-2003(Temp), f. & cert. ef. 3-28-03 thru 9-24-03

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Adm. Order No.: ID 2-2003
Filed with Sec. of State: 3-17-2003
Certified to be Effective: 3-17-03
Notice Publication Date: 12-1-02
Rules Adopted: 836-081-0101, 836-081-0106, 836-081-0111, 836-081-0116, 836-081-0121, 836-081-0126
Subject: This rulemaking establishes standards for insurers to develop and implement administrative, technical and physical safeguards for protecting the security, confidentiality and integrity of customer records and information. The rule enables this state to carry out requirements of the federal Gramm-Leach-Bliley Act applicable to state insurance regulators.
Rules Coordinator: Sue Munson—(503) 947-7272

836-081-0101
Purpose, Policy, Authority and Effective Date

(1) OAR 836-081-0101 to 836-081-0126 are adopted by the Director of the Department of Consumer and Business Services under the authority of ORS 731.244 for the purpose of implementing:

(a) ORS 746.240, relating to trade practices found by the Director to be an unfair or deceptive act or practice in the transaction of insurance that is injurious to the insurance-buying public; and

(b) ORS 746.670, relating to the Director's authority to examine and investigate into the affairs of an insurer, agent or insurance support organization in order to determine whether any of those entities is violating or has violated any provision of ORS 746.600 to 746.690, governing the use and disclosure of insurance information.

(2) OAR 836-081-0101 to 836-081-0126 establish standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807, as follows:

(a) Section 501(a) provides that it is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards:

(A) To ensure the security and confidentiality of customer records and information;

(B) To protect against any anticipated threats or hazards to the security or integrity of such records; and

(C) To protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

(b) Section 503(a)(3) requires each financial institution to develop policies for protecting the nonpublic personal information of consumers, and to make those policies available in written form.

(c) Section 505(b)(2) calls on state insurance regulatory authorities to implement the standards prescribed under Section 501(b) by regulation with respect to persons engaged in providing insurance.

(d) Section 507 provides, among other things, that a state regulation may afford persons greater privacy protections than those provided by subtitle A of Title V of the Gramm-Leach-Bliley Act. The safeguards established pursuant to OAR 836-081-0101 to 836-081-0126 apply to nonpublic personal information, including financial information and health information.

(3) Each licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to OAR 836-081-0101 to 836-081-0126, by September 1, 2002.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240, ORS 746.670
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

836-081-0106
Definitions

For purposes of OAR 836-081-0101 to 836-081-0126, the following definitions apply:

(1) "Customer" means a customer of the licensee as the term "customer" is defined in ORS 746.600(10).

(2) "Customer information" means personal information as defined in ORS 746.600 about a customer, whether in paper, electronic or other form, that is maintained by or on behalf of the licensee.

(3) "Customer information systems" means the electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.

(4) "Licensee" means a licensee as that term is defined in ORS 746.600, except that "licensee" does not include a purchasing group or an unauthorized insurer in regard to surplus lines business conducted pursuant to ORS 735.400 to 735.495.

(5) "Service provider" means a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240, ORS 746.670
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

836-081-0111
Information Security Program

(1) Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

(2) If a licensee is domiciled in another jurisdiction or subject to the primary jurisdiction of a different functional regulator, and the statutes and rules administered by its domiciliary regulator or primary functional regulator establish standards for protecting the security of consumer information that are substantially similar to those established by OAR 836-081-0101 to 836-081-0126, then good faith compliance with those standards to the satisfaction of the licensee's primary regulator shall constitute compliance with OAR 836-081-0101 to 836-081-0126.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240, ORS 746.670
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

836-081-0116
Objectives of Information Security Program

A licensee's information security program shall be designed to:

(1) Ensure the security and confidentiality of customer information;

(2) Protect against any anticipated threats or hazards to the security or integrity of the information; and

(3) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240, ORS 746.670
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

836-081-0121
Examples of Methods of Development and Implementation

The actions and procedures described in this rule are examples of methods of implementation of the requirements of OAR 836-081-0111 and

836-081-0116. These examples are nonexclusive illustrations of actions and procedures that licensees may follow to implement OAR 836-081-0111 and 836-081-0116. The examples are as follows:

(1) Assessing risk. The licensee:

(a) Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems;

(b) Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and

(c) Assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

(2) Managing and controlling risk. The licensee:

(a) Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities;

(b) Trains staff, as appropriate, to implement the licensee's information security program; and

(c) Regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

(3) Overseeing service provider arrangements. The licensee:

(a) Exercises appropriate due diligence in selecting its service providers; and

(b) Requires its service providers to implement appropriate measures designed to meet the objectives of this regulation, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.

(4) Adjusting the program. The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240, ORS 746.670
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

836-081-0126
Unfair Insurance Trade Practice

Violation of any provision of OAR 836-081-0101 to 836-081-0126 is an unfair trade practice for purposes of ORS 746.240.

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 746.240
Hist.: ID 2-2003, f. & cert. ef. 3-17-03

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Adm. Order No.: ID 3-2003
Filed with Sec. of State: 4-14-2003
Certified to be Effective: 7-1-03
Notice Publication Date: 12-1-02
Rules Adopted: 836-053-0005
Subject: This rulemaking implements legislation enacted in 2001 that requires issuance of a prescription drug identification card or other technology to enrollees and requires the card or other technology to contain all information required for proper claims adjudication. The requirement applies to carriers that provide coverage for prescription drugs on an outpatient basis and issue a card or other technology for claims processing, and to administrators of health benefit plans, including third party administrators for self-insured plans, pharmacy benefits managers and administrators of state administered plans. The requirement takes effect July 1, 2003.
Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0005
Prescription drug identification cards

(1) This rule establishes minimum standards for prescription drug identification cards or other technologies that are required by ORS 743.788 to be issued by carriers, administrators of health benefit plans, third party administrators for self-insured plans, pharmacy benefits managers and administrators of state administered plans. This rule is adopted pursuant to the rulemaking authority of ORS 743.790 for the purpose of implementing ORS 743.788.

(2) A prescription drug identification card or other technology required by ORS 743.788 must contain the following information:

(a) The data element consistent with the "BIN, "IIN/BIN" or "RxBIN," which is the American National Standards Institute-assigned international identification number identified in the National Council for Prescription Drug Programs Pharmacy ID Card Implementation Guide, and labeled as RxBIN or BIN.

(b) The enrollee's name and identification number.

(c) A telephone number of the carrier or other issuer of the card or technology that a pharmacist may use to contact the carrier or other issuer, and a telephone number for after hour calls from a pharmacist (if that number is different from the first), unless the telephone number or numbers are provided electronically to the pharmacist at the time of processing.

(d) If required by the claims processor of the carrier or other issuer of the card, the processor control number labeled as RxPCN, and the pharmacy group number if different from the medical group number labeled as RxGrp.

(e) Any other information and any other data element of the National Council for Prescription Drug Programs Guide required by the issuer of the card for the processing of claims.

(3) This rule becomes operative on July 1, 2003.

Stat. Auth.: ORS 743.790
Stats. Implemented: ORS 743.788
Hist.: ID 3-2003, f. 4-14-03 cert. ef. 7-1-03

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

Adm. Order No.: WCD 3-2003
Filed with Sec. of State: 3-18-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 8-1-02, 2-1-03
Rules Adopted: 436-160-0001, 436-160-0002, 436-160-0003, 436-160-0004, 436-160-0005, 436-160-0006, 436-160-0010, 436-160-0020, 436-160-0030, 436-160-0040, 436-160-0050, 436-160-0060, 436-160-0070, 436-160-0080, 436-160-0090, 436-160-0300, 436-160-0310, 436-160-0320, 436-160-0330, 436-160-0340, 436-160-0350, 436-160-0360
Rules Amended: 436-050-0060
Subject: OAR 436-050-0060 has been amended to make paper and electronic proof-of-coverage reporting requirements consistent. In the related OAR 436-160 rules (Electronic Data Interchange), provision of specific data elements is mandatory. Parallel changes are therefore being made in OAR 436-050-0060.

OAR 436-160 is adopted to provide the general foundation for electronic data interchange (EDI), and the specific requirements regarding EDI for reporting proof of workers' compensation insurance coverage (POC) to the director. Insurers and other trading partners may elect to participate in EDI and report POC data electronically rather than via paper forms. These rules:

• Incorporate, by reference, the IAIABC EDI Implementation Guide for Proof of Coverage, Release 2, dated May 1, 2002, with the qualification "unless otherwise provided in these rules";

• Define terms pertinent to EDI, such as "electronic signature" and "recognized filing date";

• Define terms unique to Oregon, such as "electronic guaranty contract" and additional terms with a unique meaning pursuant to Oregon's laws and rules;

• Describe testing procedures and accuracy standards;

• Specify security requirements for verification of electronic signatures and virus elimination;

• Require development of a trading partner agreement prior to electronic filing;

• Address retention requirements for electronic records;

• Explain how the director will acknowledge accepted and rejected electronic transactions;

• List the data elements available for reporting POC data and state which elements are mandatory, optional, or conditional;

• State requirements for reporting election or exclusion of workers' compensation coverage for non-subject workers; and

• Describe procedures for initiating, terminating, and reinstating guaranty contracts, and for correcting POC data previously submitted.

Questions can be directed to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us

Rules are available on the Internet at www.oregonwcd.org (see under "Laws & Rules"). For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-050-0060
Guaranty Contract Filing Requirements; Evidence of Authority

(1) Every guaranty contract issued by an insurer pursuant to ORS 656.419 shall:

(a) Contain information pursuant to, and be filed in accordance with, ORS 656.419 and this rule.

(b) Be in writing and shall include the employer FEIN or other federal tax reporting number; legal name of the employer; type of ownership; primary nature of business; employer telephone number; employer mailing address; employer principal place of business address; specific insurer providing coverage; policy number; effective date of coverage; insurer representative signature; and statement of assumption of liability pursuant to ORS 656.419(1).

(c) Be submitted in a form and format prescribed by the Director; and

(d) Be completed in its entirety prior to submission to the director.

(2) A Standard Industrial Classification Code (SIC) or North American Industry Classification System (NAIC) code will satisfy the required description of the nature of the business in which the employer is engaged or proposes to engage.

(3) Incomplete, illegible, or incorrect guaranty contracts received by the director may not be considered filed.

Stat. Auth.: ORS 656.704 & ORS 656.726(4)
Stats. Implemented: ORS 656.419 & ORS 656.427
Hist.: WCB 18-1975(Admin), f. 12-19-75, ef. 1-1-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 1-1983(Admin), f. 6-30-83, ef. 7-1-83; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0100; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0001
Authority for Rules

These rules are promulgated under the director's authority contained in ORS 656.726(4).

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0002
Purpose

The director's purpose is to allow certain workers' compensation filing or reporting via electronic data interchange.

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0003
Applicability of Rules

(1) These rules apply to workers' compensation related transactions filed with the director via electronic data interchange on or after April 1, 2003.

(2) The director may, unless otherwise obligated by statute, waive any procedural rules in this rule division as justice so requires.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.726(4)
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0004
Adoption of Standards

The director adopts, by reference, IAIABC EDI Implementation Guide for Proof of Coverage, Release 2, dated May 1, 2002 including the definition of standards and procedures for submitting electronic proof of coverage to the division, unless otherwise provided in these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth: ORS 656.264
Stat. Implemented: ORS 656.017, ORS 656.407, ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0005
General Definitions

For the purpose of these rules, unless it conflicts with statute or rule:

(1) "Conditional data element" means an element that becomes mandatory under certain conditions. Once mandatory, a conditional data element will cause a rejection of the transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(2) "Director" means the Director of the Department of Consumer and Business Services or the director's designee for the matter.

(3) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(4) "Electronic Data Interchange" or "EDI" means a computer to computer exchange of information in a standardized electronic format.

(5) "Electronic Record" means information created, generated, sent, communicated, received, or stored by electronic means.

(6) "FEIN" means the federal employer identification number or other federal reporting number used by the insurer, insured, or employer for federal tax reporting purposes.

(7) "Header record" means the record that precedes each transmission for the purpose of identifying a sender, the date and time of the transmission, and the transaction set within the transmission.

(8) "IAIABC" means the International Association of Industrial Accident Boards and Commissions, a professional trade association comprised of state workers' compensation regulators and insurance representatives (www.iaiabc.org).

(9) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(10) "Industry code" means the code which indicates the nature of the employer's business, which is contained in the Standard Industrial Classification (SIC) manual published by the Federal Office of Management and Budget, or in the North American Industrial Classification System (NAICS) published by the U.S. Census Bureau.

(11) "Insurer" means workers' compensation insurance carrier providing coverage to an employer, or a self-insured employer.

(12) "Mandatory data element" means an element that will cause a rejection of a transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(13) "Optional data element" means an element that an insurer should report to the director if the information is available to the insurer. Optional data elements will not cause a rejection if missing or invalid.

(14) "Proof of coverage" means an electronic record or set of records identifying an insurer as providing workers' compensation coverage for a specific employer.

(15) "Record" means electronic record.

(16) "Sender" means the person or entity reporting electronic data interchange transactions to the division. Sender may include vendors or insurers.

(17) "Trading partner agreement" means the agreement entered into pursuant to OAR 436-160-0020 between the director and an insurer to conduct transactions via EDI.

(18) "Trailer record" means the record that designates the end of a transmission and provides a count of transactions contained within the transmission, not including the header and trailer records.

(19) "Transaction" means a set of EDI records, defined according to standards in OAR 436-160-0004.

(20) "Transmission" means a defined set of transactions, including both header and trailer records to be sent to the division or sender via EDI.

(21) "Vendor" means an agent identified in a trading partner agreement to submit transmissions to the division on behalf of an insurer. Vendors may include service companies, third party administrators, and managing general agents.

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 84.004, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0006
Administration of Rules

Orders issued by the division in carrying out the director's authority to enforce ORS Chapter 656 are considered orders of the director.

Stat. Auth: ORS 656.704, ORS 656.726(4)
Stat. Implemented: ORS 656.704, ORS 656.726(4)
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0010
Security

(1) The sender will verify that an electronic signature, record, or performance is that of a specific person.

(2) The sender will utilize anti-virus software to eliminate any viruses on all electronic transmissions. The sender will maintain the anti-virus software with the most recent anti-virus update files from the software provider. The sender will notify the director immediately if a virus is detected.

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0020
Trading Partner Agreement

(1) An insurer must enter into a trading partner agreement with the director before the division will begin testing with or accept production electronic transmissions from the insurer or from a vendor on behalf of that insurer.

(2) The trading partner agreement will include:

(a) A statement that the insurer will remain responsible and liable for all electronic records transmitted to the director;

(b) Transmission protocol between sender and director;

(c) A specific description of the form, format, and delivery of electronic transmissions pursuant to OAR 436-160-0004 and 436-160-0050;

(d) Specific identifying information for insurer, third party administrator, if any, and vendor, if any;

(e) Cost allocation of transactions, if any;

(f) The time frame for the director to submit acknowledgements of transmissions; and

(g) Any other necessary statements, conditions or requirements to facilitate EDI.

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 84.013, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0030
Retention of Electronic Records

Insurers, self-insured employers, and service companies shall retain workers' compensation records pursuant to OAR 436-050-0120 and 436-050-0220. Records may be retained in electronic format if the records can be reproduced.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.455, ORS 731.475
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03436-160-0030

436-160-0040
Recognized Filing Date

(1) Unless otherwise stated in the trading partner agreement, an electronic record is sent when it:

(a) Is addressed or directed properly to an information processing system designated or used by the division to receive electronic records or information;

(b) Is in a form and format capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or enters a region of the information processing system designated or used by the division and that is under control of the division.

(2) Unless otherwise stated in the trading partner agreement an electronic record is received when it:

(a) Enters an information processing system designated or used by the division to receive electronic records or information of the type sent and from which the division is able to retrieve the electronic record; and

(b) Is in a form and format capable of being processed by the division's information processing system.

(3) For the purpose of these rules, an electronic transaction is capable of being processed by the division's information processing system when all the required data elements are in the form and format specified in these rules, in the proper sequence, and in accordance with the terms of the trading partner agreement.

Stat. Auth: ORS 656.264, ORS 656.726(4)
Stat. Implemented: ORS 84.013, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0050
Form, Format, and Delivery for Electronic Data Reporting

The form, format, and delivery of data elements and definitions will conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 84.013, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0060
Testing Procedures and Requirements

(1) Each transmission for test purposes will conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement. Test files will be evaluated in terms of whether the data was sent in the correct, standardized format.

(2) To gain approval to send production transmissions, the sender must be able to:

(a) Transmit records via electronic data interchange; and

(b) Accomplish secure file transfer protocol uploads and downloads.

(3) To initiate a test for EDI, the sender shall contact the director.

(4) The sender shall demonstrate the ability to send transmissions to the director that are readable, in the correct format, and can be processed through the division's information processing system. A successful EDI test is determined by the resolution of any consistently recurring fatal technical errors identified by the division such that:

(a) Transmissions are sent to the director without errors in the header or trailer record;

(b) Transmissions are sent to the director without transaction level technical errors; and

(c) The sender can receive and process the automated EDI acknowledgement transaction.

(5) To move from test to production, the sender must achieve 90% accuracy for transactions sent for a minimum of three consecutive transmissions during the test (i.e. 90% of the transactions must have been accepted by the division and the sender has received a transaction accepted acknowledgement). The director will consider the sender's anticipated volume of production transactions to determine the number of transactions per test transmission required.

(6) Once approved, sender shall maintain the accuracy as defined in sections (4) and (5) of this rule. Failure to meet technical requirements may result in the revocation of EDI transmission approval.

(7) The director will inform the sender and insurer (if different) if accuracy standards for technical requirements fall below standards prescribed in sections (4) and (5) of this rule during production.

(8) During the EDI test phase, insurer will continue to submit filings via paper. Once the sender becomes approved and moves into production, insurer will not submit same transaction filings via paper. If a problem occurs with EDI transmission during production, insurer may return to paper filing to meet statutory filing requirements until the problem is corrected.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 84.013, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0070
Electronic Signature

The sender's federal employer identification number (FEIN) plus its postal code as reported in the header record and stated in the trading partner agreement is the unique identifier that is the electronic signature for electronic data interchange.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 84.001 - ORS 84.061, ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0080
Acknowledgements

(1) The director will respond to the sender with an electronic transaction accepted or transaction rejected acknowledgement of the insurer's transactions.

(2) The insurer shall correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0090
Address Reporting

The sender will follow the standard United States Postal Service guidelines in reporting all addresses, as follows:

(1) The physical (street) address, or an attention line, must be in address line one. The attention line, if used, must be in line one.

(2) If the physical address is used in address line one, the mailing address may be used in address line two. If address line one was used as the attention line, then the physical (street) address must be in address line two.

(3) Physical (street) address and attention line must be on separate address lines.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0300
Proof of Coverage Definitions

(1) Unless otherwise provided in these rules, the definitions and standards identified in OAR 436-160-0004 and OAR 436-160-0005 apply.

(2) For the purpose of OAR 436-160-0300 through OAR 436-160-0360 "establishing documents" is a term used in the IAIABC EDI Implementation Guide for Proof of Coverage to denote certain transaction types. The establishing document transaction types listed in OAR 436-160-0350(2)(c) can be used to file a guaranty contract under that rule. In Oregon, a reinstatement, an add location, and an add employer transaction type can also be an establishing document. A change policy number transaction type is not an establishing document.

[Publications: Publications referenced are available from the agency.]
Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0310
Proof of Coverage Electronic Filing Requirements

(1) The chart in Appendix "A" shows all proof of coverage data elements accepted via EDI in Oregon, and whether the data element is mandatory (M), conditional (C), or optional (O) for each transaction type.

(2) Unless otherwise provided in these rules, the data elements shall have the meaning provided in the data dictionary pursuant to OAR 436-160-0004.

(3) Transactions will be rejected if mandatory or required conditional data elements are omitted or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(4) Optional data element(s) in a transaction will be ignored if the optional data element is either omitted, or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(5) Unless otherwise provided in these rules, an insurer approved for production transmissions will transmit proof of coverage via EDI, and will not submit like paper documents to the director except as provided in OAR 436-160-0340.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0320
Proof of Coverage Acknowledgement

(1) The division will respond to transmissions submitted with either a transaction accepted or a transaction rejected acknowledgement.

(2) A transaction rejected acknowledgement will be sent for all transactions incapable of being processed by the division's information processing system, including, but not limited to:

(a) An omitted mandatory data element;

(b) An improperly populated data element field, e.g. numeric data element field is populated with alpha or alphanumeric data, or is not a valid value;

(c) Transactions or electronic records within the transaction which require matching and cannot be matched to the division's database;

(d) Illogical data in mandatory or required conditional field, e.g. termination date is before coverage effective date;

(e) Duplicate transmission or duplicate electronic records within the transmission;

(f) Invalid triplicate code; or

(g) Illogical event sequence relationship between transactions, e.g. endorsement transaction submitted before a policy transaction is submitted.

(3) A transaction accepted acknowledgement will be sent for all transactions that are in a format capable of being processed by the division's information processing system and are not rejected pursuant to section (2) of this rule.

(4) An insurer's obligation to file proof of coverage for the purposes of this rule is not satisfied unless the director acknowledges acceptance of the transaction.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0330
Proof of Coverage Effective Dates

(1) For all binder or new policy establishing document transactions submitted pursuant to OAR 436-160-0350, the coverage effective date will also be the guaranty contract effective date.

(2) For all other establishing document transactions that meet the guaranty contract filing requirements of OAR 436-160-0350, the transaction set type effective date will also be the guaranty contract effective date.

(3) For reinstatement transactions the transaction set type date will be a new guaranty contract effective date only if the transaction set type effective date is later than the expiration date of guaranty contract liability under ORS 656.427 as calculated by the division. If the transaction set type effective date is on or before the expiration date of guaranty contract liability, that guaranty contract will remain in effect as previously filed.

(4) For all other transactions, the effective date will be the transaction set type effective date.

(5) The policy expiration date submitted on a transaction does not terminate liability under a guaranty contract. Liability under a guaranty contract filed by an insurer continues until it is terminated pursuant to OAR 436-160-0360 and ORS 656.427.

(6) For reissue, renewal, reinstatement, or endorsement transactions, the transaction effective date will be the transaction effective date submitted by the insurer.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0340
Proof of Coverage Changes or Corrections

(1) Changes or corrections to proof of coverage information must be submitted pursuant to the standards referenced in OAR 436-160-0004.

(2) To report changes or corrections of an insured employer's name or address pursuant to ORS 656.419(4), or changes or corrections to other data elements, the insurer must transmit the appropriate transaction to specify what data is being changed or corrected.

(3) The insurer's policy number is used to assist in matching each transaction to the appropriate employer. When an insurer changes a policy number, the insurer must report that change with or prior to the next transaction submitted for that policy. Failure to report a change in the policy number will render future filings incapable of being processed by the division's information processing system and the insurer will receive a transaction rejected acknowledgement.

(4) If changing a partner name of an insured or employer does not change the entity, a new guaranty contract does not need to be filed.

(5) A transaction to change the effective date of coverage is capable of being processed by the division's information processing system only if the new date does not create a lapse in coverage. To report a change to the effective date of coverage which results in a lapse, the insurer must submit transactions to terminate the current guaranty contract and file a new guaranty contract.

(6) To add or delete coverage for corporate officers, members of a limited liability company, partners, sole proprietors or other non-subject workers, the insurer must file written notice to the director listing the individual names as required by ORS 656.419.

(7) Transactions to change the wrap-up indicator are not capable of being processed by the division's information processing system.

(8) Transactions to change the business market, assignment date, and professional employer organization (worker leasing company) indicator are not capable of being processed by the division's information processing system.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.264, ORS 656.419
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0350
Guaranty Contract Filing Requirements

(1) For the purpose of these rules, an electronic guaranty contract consists of an executed trading partner agreement containing the guaranty described in subsection (2)(a) of this rule, and an accepted proof of coverage insured and employer electronic record.

(2) To file a guaranty contract via EDI, an insurer must do all of the following:

(a) Enter into a trading partner agreement with the director pursuant to OAR 436-160-0020 that contains a statement of assumption of liability and guaranty of payment pursuant to ORS 656.419(1);

(b) Transmit an electronic record of the proof of coverage data elements identified as mandatory or required conditional pursuant to OAR

436-160-0310, including a unique FEIN for each legally distinct employer included in the establishing document transaction; and

(c) Transmit an establishing document transaction: binder, new policy, renew policy, rewrite/reissue policy, reinstatement, add location, add employer, or add jurisdiction. A renew policy, add location, or add employer transaction will only establish a guaranty contract if the data elements have not previously been transmitted, the employer FEIN is not a duplicate per section (3) below, and coverage for that unique employer FEIN has not been previously established by the reporting carrier. A reinstatement transaction will only establish a new guaranty contract if there is a lapse in coverage and the requirements of ORS 656.419 and OAR 436-160-0350 are otherwise met.

(3) A duplicate FEIN or a FEIN previously reported under the same policy will be recorded as an additional employer location and/or an assumed business name, but will not establish an additional guaranty contract.

(4) Reinstatement, rewrite, and reissue transaction types must follow a cancellation transaction.

(5) If an employer elects to include any non-subject worker(s) under coverage pursuant to ORS 656.419(2)(d), or subsequently to exclude such workers from coverage, the insurer must:

(a) Submit a transaction with a reason code for including or excluding a corporate officer, partner, member, sole proprietor, or any other person; and

(b) File written notice with the director naming the otherwise non-subject workers to be included or previously included non-subject workers to be excluded under the guaranty contract.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

436-160-0360
Guaranty Contract Terminations

(1) For the purposes of EDI, to terminate a guaranty contract when an insurer receives written notice of cancellation of coverage from an employer pursuant to ORS 656.423, the insurer must:

(a) Provide notice to the director by transmitting the transaction type for cancellation by insured or nonrenewal by insured;

(b) Retain the employer's written notice for inspection by the division; and

(c) Provide written notice to the employer pursuant to ORS 656.427(1) and (3).

(2) For the purposes of EDI, to terminate a guaranty contract for any other reason, the insurer must:

(a) Provide notice to the director by transmitting the transaction type for cancellation or nonrenewal pursuant to section (4) below; and

(b) Provide written notice to the employer pursuant to ORS 656.427(1) and (3).

(3) The date and hour of termination must be included in the written notice to the employer to terminate a guaranty contract. For the purposes of notice to the director, the hour cannot be reported via EDI and is deemed to be 12 midnight:

(a) 30 days after the date notice under ORS 656.427(2)(a) is received by the director pursuant to OAR 436-160-0040, or on the transaction set type effective date, whichever is later; or

(b) 90 days after the date notice under ORS 656.427(2)(b) is received by the director pursuant to OAR 436-160-0040 or on the transaction set type effective date, whichever is later.

(4) A delete location transaction can be used to notify the director that one or more locations for an employer are no longer workplaces of the employer. This transaction does not meet the requirements of ORS 656.427 for notice of termination.

(5) If the intent of an insurer is to terminate guaranty contract liability for all insureds under a policy, the insurer must use a cancellation or nonrenewal transaction type and must report all covered employers.

(6) Delete jurisdiction transactions are not capable of being processed by the division's information processing system and will result in a transaction rejected acknowledgement being sent to the insurer.

Stat. Auth: ORS 656.726(4)
Stat. Implemented: ORS 656.419, ORS 656.423, ORS 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03

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Rules Amended: 436-035-0500
Subject: Promulgation of temporary disability standards to address the impairment of an individual injured worker in WCD files AAB-9871, BAD-2834, BAD-5597, E82-3081, EAB-6007, EAD-0843, F98-7114, FAA-9841, G92-9449, G94-9409, HAC-1026 and HAD-6042.
Rules Coordinator: Fred Bruyns—(503) 947-7717

436-035-0500
Temporary Rule Promulgation for Individual Claims

(1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases pursuant to ORS 656.726(4)(f)(C) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not addressed in the disability standards.

(2) Temporary rules promulgated pursuant to ORS 656.726 (4)(f)(C) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter in accordance with ORS 183.335(6)(a).

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided in OAR 436-001-0000(3).

BAD-0991 Prior to becoming medically stationary in regards to his accepted conditions, this worker's claim qualified for closure. The worker was not medically stationary at the time of the medical arbiter examination. No major contributing cause denial had been issued and the parties did not consent to postpone the reconsideration proceeding. Similar to OAR 436-035-0007(5)(e), the Director assigns a value of zero for the unscheduled permanent partial disability award of 0% for the accepted low back strain. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. BAD-0991.

DAC-2018 As a result of the accepted amputation of the distal phalanx of the right index finger, the worker experiences a loss of function due to mild hypersensitivity. The Director finds the loss of function, due to hypersensitivity in half the distal phalanx of the right index finger, similar to the loss of function experienced with less than normal sensation and assigns an impairment value of 8% of the right index finger. See OAR 436-035-0110(1). This value shall be combined with any other applicable impairment values for the involved right index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. DAC-2018.

EAE-0535 This worker has residual moderate instability of the metacarpal phalangeal joint of the left thumb due to a fracture and ulnar collateral ligament dysfunction. This impairment is not addressed by the Standards. The Director assigns a total value of 4.0% for moderate metacarpal phalangeal joint instability of the left thumb. This value shall be combined with any other applicable impairment values for the left thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. EAE-0535.

FAA-9983 The worker sustained a significant right ankle sprain resulting in the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 25 degrees of retained plantar flexion. The Director assigns an impairment value of 5.5% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss, then combined and apportioned with any other applicable impairment values, as appropriate. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. FAA-9983.

G93-5860 The worker experiences a loss of function from temperature sensitivity, particularly cold intolerance resulting from burns and full thickness skin grafting on the dorsum of the fingers. The Director finds the loss of use and function of the fingers due to temperature sensitivity similar to the loss associated with a Class 3 vascular impairment and assigns an impairment value of 35% of the right index finger, 35% of the right middle finger, 35% of the right ring finger and 35% of the right little finger. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for each finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G93-5860.

IAC-5199 The worker experiences a loss of function from cold intolerance due to the fracture and laceration resulting in a near amputation of the left little finger. The Director finds the loss of use and function of the left little finger due to cold intolerance similar to the loss associated with a Class 3 vascular impairment and assigns an impairment value of 35% of the left little finger. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for the left little finger.

Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. IAC-5199.

AAB-9871 This worker has an accepted diastasis of the sacroiliac joint which is not addressed by the former Standards. The Director adopts the current value and assigns an impairment value of 10% for the accepted diastasis of the sacroiliac joint. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. AAB-9871.

BAD-2834 As a result of pain and atrophy of the right testis the worker underwent removal of the testicle. At the time of closure, the former rules did not address removal of the testicle without an absence or abnormally high level of hormones. The current Standards address the loss of the right testis (gonad) with an alteration in the ability to produce hormones. See OAR 436-035-0430(7). In this case, the Director assigns an impairment value of 3% for this worker's loss of a gonad and resulting sexual dysfunction, including altered hormone production. This impairment value is combined with any other ratable impairment under the former Standards. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. BAD-2834.

BAD-5597 This worker sustained a puncture injury of his right foot resulting in an inability to reach neutral or zero toe position at the MTP joint of the right 3rd and 4th toes. At the time of claim closure, the former Standards did not provide a value for the worker's loss of dorsiflexion. See former OAR 436-035-0160(5). The current Standards address this loss, therefore, the Director adopts the current value and assigns an impairment value of 10.5% for dorsiflexion of the right 3rd toe and 25% for dorsiflexion of the right 4th toe. Each toe value shall be added to any other loss of motion in the corresponding MTP joint of the 3rd and 4th toes. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. BAD-5597.

E82-3081 The worker sustained bilateral calcaneal fractures that went on to develop extensive arthritis associated with decreased strength. The worker has extensive arthritis in both the left and right feet. At the time of closure, the former rules did not address extensive arthritis in the foot. Therefore, in this case, the Director adopts the criteria as set forth in the current Standards pursuant to OAR 436-035-0200(5) and assigns a value of 5% for the right foot and 5% for the left foot. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. E82-3081.

EAB-6007 This worker has sexual dysfunction as a direct medical sequelae of the accepted L1 burst fracture and resulting surgery. At the time of closure, the former Standards did not address sexual dysfunction. The current Standards address sexual dysfunction. See OAR 436-035-0420(10). The Director adopts the current impairment and assigns a value of 14% unscheduled disability for the sexual dysfunction. This value shall be combined with any other applicable unscheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. EAB-6007.

EAD-0843 As a result of the accepted mallet avulsion fracture and subsequent surgery, the worker experiences a loss of function due to mild hypersensitivity and cold intolerance. At the time of closure, the former rules did not address cold intolerance due to vascular dysfunction that was not attributed to Raynaud's phenomenon. See former OAR 436-035-0110(6). The Director finds the loss of function, due to the cold intolerance in the left index finger, similar to the loss associated with a Class 3 vascular impairment under the current Standards and assigns an impairment value of 35% of the left index finger. The current rules address hypersensitivity but the former rules did not. The Director finds the loss of function, due to hypersensitivity in the left index finger, is equivalent to the loss of function experienced with less than normal sensation and assigns an impairment value of 20% of the left index finger, from the PIP joint to the tip. These values shall be combined with any other applicable impairment values for the involved left index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. EAD-0843.

F98-7114 The worker sustained multiple comminuted fractures and a residual chronic infection, resulting in the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 18 degrees of retained plantar flexion. At the time of claim closure, the former standards did not address the inability to reach neutral or zero ankle position. See former OAR 436-035-0190(8). The Director assigns an impairment value of 7.8% for plantar flexion of the left ankle. This value shall be added to any other ankle or subtalar range of motion loss, then combined with any other applicable impairment values, as appropriate. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. F98-7114.

FAA-9841 As a result of the accepted C5-6, the worker experiences a loss of function due to moderate to severe hypersensitivity. At the time of closure, the former Standards did not address hypersensitivity. The Director finds the loss of function due to hypersensitivity in the right thumb, index and middle fingers, similar to a 44% impairment value which is in between the value for loss of "protective sensation" and "total loss of sensation". See OAR 436-035-0110(1)(c). The Director assigns an impairment value for hypersensitivity of 44% for loss in the right thumb, 44% for loss in the right index finger and 44% for loss in the right middle finger. These values shall be combined with any other applicable impairment values for the involved fingers and converted to a hand value, where appropriate. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. FAA-9841.

G92-9449 Following a comminuted distal left femur fracture and traumatic occlusion of the popliteal artery resulting in multiple surgeries and extensive scarring, the worker experiences hypersensitivity in the left leg. The Director assigns a value of 5% for the hypersensitivity in the left leg. This value shall be combined with any other applicable scheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. G92-9449.

G94-9409 The worker sustained a right lower leg fracture with reflex sympathetic dystrophy resulting in the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 33 degrees of retained plantar flexion. At the time of claim closure, the former standards did not address the inability to reach neutral or zero ankle position. See former OAR 436-035-0190(8). The Director assigns an impairment value of 2.8% for plantar flexion of the right ankle. This value shall be added to any other ankle or subtalar range of motion loss, then combined and apportioned with any other applicable impairment values, as appropriate. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. G94-9409

HAC-1026 As a result of the accepted crush injuries to the fingers causing vasospasm and reflex sympathetic dystrophy, the worker experiences a loss of function due to cold intolerance. At the time of closure, the former rules did not address cold intolerance due to vascular dysfunction that was not attributed to Raynaud's phenomenon. See former OAR 436-035-0110(6). The Director finds the loss of function, due to the cold intolerance in the left thumb and hand, attributable to vascular dysfunction associated with a Class 5 impairment under the current Standards and assigns an impairment value of 88% of the left hand. This value shall be combined with any other applicable impairment values for the involved left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. HAC-1026.

HAD-6042 Following a left little finger fracture and laceration, the worker experiences a loss of use due to moderate hypersensitivity. Hypersensitivity in the fingers was not addressed by the former Standards under which this claim was closed, but is addressed by the current rules. The worker has a moderate level of hypersensitivity, which equates to a "protective sensation loss" under the current rules. The Director adopts the current rule wording and assigns an impairment value of 19% for hypersensitivity in the distal phalanx of the left little finger. This value shall be combined with any other applicable impairment values for the involved left little finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. HAD-6042.

Stat Auth.: ORS 656.726(4)

Stats Implemented: ORS 656.268(6); ORS 656.726(4)(f)(C)

Hist.: WCD 16-1992(Temp), Case #A58-7576 & Case #D60-5352, f. & ef. 12-31-92 - 6-29-93; WCD 2-1993(Temp), Case #A58-2159, B59-4533, E61-4228, & I59-2031, f. & ef. 4-28-93 - 10-25-93; WCD 4-1993, f. & cert. ef. 6-29-93; WCD 5-1993(Temp), Case #I64-3064, f. & cert. ef. 9-2-93 - 3-2-94; WCD 6-1993(Temp), Case #I64-3064, f. & cert. ef. 10-22-93 - 4-19-94; WCD 4-1994(Temp), f. & cert. ef. 5-26-94; WCD 6-1994(Temp), f. & cert. ef. 7-15-94; WCD 8-1994(Temp), f. & cert. ef. 8-31-94; WCD 11-1994(Temp), f. & cert. ef. 11-10-94; WCD 1-1995(Temp), f. & cert. ef. 1-26-95; WCD 2-1995(Temp), f. & cert. ef. 3-2-95; WCD 3-1995(Temp), f. & cert. ef. 4-13-95; WCD 4-1995(Temp), f. & cert. ef. 5-31-95; WCD 5-1995(Temp), f. & cert. ef. 7-11-95; WCD 14-1995(Temp), f. & cert. ef. 10-5-95; WCD 16-1995(Temp), f. & cert. ef. 11-2-95; WCD 19-1995(Temp), f. & cert. ef. 12-7-95; WCD 4-1996(Temp), f. & cert. ef. 2-1-96; WCD 11-1996(Temp), f. & cert. ef. 3-20-96; WCD 15-1996(Temp), f. & cert. ef. 7-3-96, WCD 18-1996, f. 8-6-96, cert. ef. 8-7-96; WCD 22-1996(Temp), f. & cert. ef. 10-31-96; WCD 1-1997, f. 1-9-97, cert. ef. 2-15-97; WCD 2-1997(Temp), f. & cert. ef. 1-15-97; WCD 3-1997(Temp), f. 3-12-97, cert. ef. 3-13-97; WCD 6-1997(Temp), f. & cert. ef. 5-14-97; WCD 12-1997(Temp), f. & cert. ef. 9-9-97; WCD 4-1998(Temp), f. & cert. ef. 3-31-98 thru 9-26-98; WCD 7-1998(Temp), f. 7-13-98, cert. ef. 7-15-98 thru 1-11-99; WCD 9-1998(Temp), f. & cert. ef. 10-15-98 thru 4-12-99; WCD 1-1999(Temp), f. 1-12-99, cert. ef. 1-15-99 thru 7-13-99; WCD 5-1999(Temp), f. & cert. ef. 4-15-99 thru 10-12-99; WCD 10-1999(Temp), f. & cert. ef. 7-15-99 thru 1-10-2000; WCD 12-1999(Temp), f. 10-14-99, cert. ef. 10-15-99 thru 4-12-00; WCD 1-2000(Temp), f. 1-12-00, cert. ef. 1-14-00 thru 7-12-00; WCD 5-2000(Temp), f. 4-13-00, cert. ef. 4-14-00 thru 10-10-00; WCD 7-2000(Temp), f. 7-14-00, cert. ef. 7-14-00 thru 1-9-01; WCD 8-2000(Temp), f. & cert. ef. 10-13-00 thru 4-10-01; WCD 1-2001(Temp), f. & cert. ef. 1-12-01 thru 7-10-01; WCD 3-2001(Temp) f. & cert. ef. 4-13-01 thru 10-9-01; WCD 6-2001(Temp), f. & cert. ef. 7-13-01 thru 1-8-02; WCD 9-2001(Temp), f. & cert. ef. 10-12-01 thru 4-9-02; WCD 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; WCD 5-2002(Temp), f. 4-12-02, cert. ef. 4-15-02 thru 10-11-02; WCD 8-2002(Temp), f. 7-12-02 cert. ef. 7-15-02 thru 1-10-03; WCD

11-2002(Temp), f. 10-11-02, cert. ef. 10-15-02 thru 4-12-03; WCD 1-2003(Temp), f. & cert. ef. 1-15-03 thru 7-13-03; WCD 2-2003, f. 1-15-03 cert. ef. 2-1-03; WCD 4-2003(Temp), f. 4-14-03, cert. ef. 4-15-03 thru 10-11-03

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Department of Corrections
Chapter 291

Adm. Order No.: DOC 7-2003
Filed with Sec. of State: 4-2-2003
Certified to be Effective: 4-2-03
Notice Publication Date: 11-1-01
Rules Adopted: 291-113-0021
Rules Amended: 291-113-0005, 291-113-0010, 291-113-0015, 291-113-0030, 291-113-0035
Rules Repealed: 291-113-0020, 291-113-0025
Subject: These rule amendments are necessary to establish new procedures and to clarify existing procedures in providing educational programs that are responsive to the assessed needs of inmates in the custody of the Department of Corrections.
Rules Coordinator: David R. Schumacher—(503) 945-0933

291-113-0005
Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.084, 423.020, 423.030, 423.075, and 423.085.

(2) Purpose: The purpose of this rule is to establish uniform entry requirements for all educational programs offered in Department of Corrections facilities, as well as a uniform procedure for the assignment of inmates to inter-institutional education programs in the department.

(3) Policy: It is the policy of the Department of Corrections, within the resources available, to provide educational programs which are responsive to the assessed needs of incarcerated individuals in its custody.

(a) Pursuant to ORS 179.750(2), there will be no discrimination in the provision of education facilities and services in state institutions, including those administered by the Department of Corrections, on the basis of age, race, religion, gender, marital status, national origin, or disability. Criteria for selection and assignment to these programs shall be equitable and nondiscriminatory for all participants based on the inmate's interest, academic need, aptitude, prior academic record, and career goals as identified and diagnosed at the time of admission to a Department of Corrections facility.

(b) Participation in educational programs is by mutual agreement between the inmate and the appropriate institutional staff, including but not limited to, admission and orientation, education and security. Re-assessment may also be conducted at the request of the inmate, educational staff personnel, or the inmate's counselor at any subsequent time.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980; f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0010
Definitions

(1) Adult Basic Education (ABE): A basic skills curriculum providing functional literacy foundations to inmates who do not possess a high school diploma or General Education Development (GED) certificate or do not function at a high school level. The ABE program emphasizes functional literacy skills with curriculum focused on family, work, and community. The ABE program also provides instruction in the processes involved in solving everyday problems and prepares inmates to meet the requirements of other educational programs. The ABE curriculum may also provide inmates with systematic preparation for the GED examination, administered according to guidelines set forth by the Oregon Department of Workforce Development and Community Colleges.

(2) Assessment: As applied in this rule, a test designed to measure the grade-level/scale score achievement of the person tested. Such instruments may include, but are not limited to, the BASIS (Basic Adult Skills Inventory System)/CASAS (Comprehensive Adult Student Assessment System) Test, or Test of Adult of Basic Education, or BEST (Basic English Skills Test).

(3) Collegiate Program: A post secondary course of studies offered through a local college or correspondence courses approved by institution/education staff and paid for by the inmate.

(4) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(5) English as a Second Language (ESL): A program which targets inmates who are non-English speakers with low or no English skills. The program focuses on improving English language skills (listening, speaking, reading, and writing).

(6) Functional Literacy: Those educational skills necessary to function independently in society, including but not limited to, reading, writing comprehension and numeracy.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(8) Intra-Institutional Assignment: An assignment in which an inmate is assigned to an education program within the Department of Corrections facility in which he/she resides.

(9) Inter-Institutional Assignment: An assignment in which an inmate is regularly transported to and from the Department of Corrections facility in which he/she resides, for the purpose of participation in another Department of Corrections facility's educational program not available to the inmate at the facility in which he/she resides.

(10) Work-Based Education (WBE): These programs develop specific skills that can assist inmates in obtaining employment after release. Many of the programs may include both training and production components.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0015
Collegiate Program

(1) College programs are not provided by the department. Inmates choosing to pursue a post secondary college degree or certificate, either through enrollment in classes provided at the facility or by the local community college or through correspondence courses, must pay for the program themselves. Correspondence courses must be approved by the institution/education staff. Inmates must consult their counselor before making arrangements for correspondence courses.

(2) Inmates must follow the institution rules regarding package authorization. The education unit, depending on available resources, may assist with proctoring tests, callouts for viewing videos/listening to cassette tapes. Resources will differ from facility to facility.

Note: There are no grant funds (Pell Grants) nor general fund resources to pay for these programs. Pell grants were eliminated for state prisoners in 1994 with the passage of the Federal Crime Bill.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0021
Work-Based Education (WBE) Training Programs

(1) Selection Criteria for Entry into WBE Training Programs:

(a) A high school diploma or GED; and

(b) CASAS scores of 242 in reading and 236 in math.

(c) Assignment as a new WBE student will normally be given to those candidates who are no more than three years or less than one year from his/her projected parole release date.

(2) Continuing Participation: An inmate's continuing participation in any WBE program in a Department of Corrections facility is contingent upon satisfactory, timely progress as evaluated by the instructor(s) and the Work Force Development (WFD) manager on an ongoing monthly basis.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085
Hist.: DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0030
Logistical Considerations for All Inter-Institutional Programs

(1) An inmate who meets the required criteria and is interested in a program not available in his/her specific institution setting may request an inter-institution assignment.

(a) Step 1: The inmate shall send an Inmate Communication (kyte) to the local institution Work Force Development (WFD) manager.

(b) Step 2: The institution WFD manager will process this request to determine minimum educational eligibility. All requests will be processed in accordance with that facility's approved programming procedures. If the minimum criteria are not met, the inmate will be referred to the Work Force Development unit for appropriate skill improvement in the current facility. If the minimum criteria are met, the request will be forwarded to the inmate's counselor.

(c) Step 3: The counselor will look at additional factors and the inmate's incarceration plan in order to determine the appropriateness of transfer, then return the findings to the WFD manager of the sending facility. Upon receipt, the WFD manger will forward the request and findings to the WFD manger of the receiving facility.

(d) Step 4: When the WFD manager of the receiving facility receives the request, he/she will arrange for the inmate to be interviewed, if requested by the instructor, by the appropriate program personnel, utilizing the preferred format of both facilities.

(e) Step 5: After completion of the interview(s), the WFD manager will forward the interview comments to the functional unit manager or designee of the receiving facility.

(f) Step 6: The functional unit manager or designee of the receiving facility will approve or deny the request after following institution protocol and/or having appropriate conversations with institution personnel. Justification will be based upon the following criteria:

(A) Inmate safety;

(B) Inmate's record of conformity to established rules and regulations; and

(C) The appropriateness of the proposed course of study with respect to the inmate's Inmate Incarceration Transition Plan (IITP) program goals.

(D) The fact that the inmate has one or more co-defendants or enemies housed in the participating facility is not in itself sufficient cause to deny that inmate's request to participate, unless it can be demonstrated that such participation would place any of all of these co-defendants in personal danger or jeopardize security in the participating facility.

(g) Step 7: Once the request has been approved, the inmate's name will be placed on the appropriate waiting list. The WFD manager of the receiving facility will notify the inmate and WFD manager of the sending facility that a preliminary check determined whether the inmate was eligible for transfer and that security will make the final decision just prior to transfer.

(h) Step 8: Prior to actual acceptance into the program, the WFD unit of the receiving facility will have security complete the final security check. The WFD unit of the receiving facility will contact the inmate's counselor at the sending facility and let the counselor know the inmate is ready to transfer. The counselor from the sending facility will initiate the 1206 process with Classification and Transfer. It is the responsibility of the sending facility to maintain communication with the receiving facility in order to facilitate the move.

(i) If for some reason the inmate is unable to complete his/her program, the inmate may be returned to the sending facility.

(j) Qualifications for Work-Based Education Training Programs: All work-based education training programs have requirements that inmates must meet in order to qualify for entry into the program.

(A) Standard Minimum Qualifications:

(i) Verified high school diploma or GED;

(ii) CASAS Scores: 242 reading, 236 math; and

(iii) Normally one to three years (36 or less months remaining on sentence).

(B) Programs with Additional Requirements:

(i) CAD/CAM (SRCI): ASSET college placement test with a math level of 60 or higher.

(ii) Call Center (SRCI): CASAS reading score 245 and must be able to type 30 wpm.

(iii) Construction Technology (SRCI): ASSET college placement test and 36 months remaining on sentence.

(iv) Inmate Legal Assistant (SRCI): Must pass the ASSET college placement test and 36 months remaining on sentence.

(k) Inmates who test below the minimum requirements will be given the opportunity to take education courses for basic skills upgrade in the subject and may retest to meet qualifications.

(l) In order to guarantee equal opportunity to all inmates, affirmative action may be taken to overcome the effects of conditions which resulted in limited participation therein by persons of a particular gender in accordance with existing state and federal statute, Title IX, paragraphs 86.3(B).

(m) In cases of conflicting recommendations between functional unit managers, the matter may be referred by either party to the administrator of the WFD unit for final resolution.

(2) Transportation and Arrival/Departure:

(a) Transportation will be arranged by staff from the sending facility and provided by the Transport unit.

(b) Arrival and departure times, parking arrangements, the entry and exit points to and from the participating facility, and related details will be articulated in advance and agreed upon by the functional unit manager involved.

(c) Participants will be transported to the designated instructional area by Transport staff.

(3) Supervision: Supervision of participants in inter-institutional programs will be provided by the receiving facility.

(4) Meals: Where and when meals shall be eaten will be designated in advance and approved by the functional unit managers involved.

(5) Restrooms: Participants in inter-institutional programs shall use designated restroom(s) in the area(s) assigned.

(6) Medical Services:

(a) In the event of illness or injury involving non-resident participants in an inter-institutional program, emergency attendance and first aid will be provided by the receiving facility.

(b) Immediate return to the sending facility or a local hospital shall occur if treatment in addition to emergency first aid is needed.

(7) Disciplinary Matters:

(a) In the event of any disciplinary problems involving non-resident participants, the resident will be returned to the facility in which he/she resides immediately, when indicated.

(b) Disciplinary problems and behavioral adjustments will be the responsibility of the staff and administration of the facility in which the inmate resides.

(c) An inmate may be removed from any Department of Corrections inter-institutional educational program if disciplinary action in the facility in which he/she resides results in a situation where that person is unable to participate in the program for more than two weeks.

(d) Disciplinary reports on participants in inter-institutional education programs issued at the receiving facility may also result in removal from the program. Such action will be undertaken in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(8) Emergency Moves:

(a) In the event of an emergency move due to medical or disciplinary reasons, the correctional officer from the sending facility will supervise the emergency move with the assistance of a staff member/driver from the receiving facility.

(b) The sending facility will dispatch additional staff immediately to relieve staff at the receiving facility of the responsibility for interim supervision of other inter-institutional program participants.

(9) Personal Attire:

(a) Inmates participating in any educational program will be required to follow the guidelines of the receiving facility procedure on inmate dress.

(b) Protective clothing for WBE participants will be provided by the receiving facility, but such work clothing as may be required by the nature of the trade area involved will be provided by the facility in which the inmate resides.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085

Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085

Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 19-1983, f. & ef. 5-2-83; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

291-113-0035
Adult Basic Education (ABE) Intra-Institutional Programs

(1) ABE Program Participation:

(a) ABE program participation will be based on inmate need as outlined in the inmate's Inmate Incarceration Transition Plan (IITP). In accordance with ORS 421.084, the functional literacy program is mandatory for

inmates scoring below 230 on the BASIS tests. The program will consist of the equivalent of 90 days of instruction at 1 1/2 hours per day, five days per week or 135 hours. Successful completion of the mandatory program will result in receipt of a portion of the 20% time cut for program completion for inmates who qualify in accordance with the Department of Corrections rule on Prison Term Modification (OAR 291-097). Those exempted from the mandatory program include:

(A) Inmates sentenced to less than one year;

(B) Inmates sentenced to life without parole;

(C) Inmates sentenced to death; and

(D) Inmates developmentally disabled.

(b) The ABE program is available to inmates on request. Need will be assessed by means of a recognized assessment to determine the functional literacy level/scale score achievements of the inmate for use in correct placement of the individual in the ABE program. Those unable to test will be given further assessment at the facility in which they reside and will be recommended for appropriate programming.

(c) Placement of an inmate in the ABE curriculum will reflect each individual's IITP.

(d) Staff will regularly assess inmate progress toward identified outcomes.

Stat. Auth.: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085

Stats. Implemented: ORS 179.040, ORS 421.084, ORS 423.020, ORS 423.030, ORS 423.075, ORS 423.085

Hist.: CD 10-1978(Temp), f. & ef. 5-5-78; CD 14-1978, f. & ef. 7-21-78; CD 4-1980, f. & ef. 3-28-80; CD 27-1981(Temp), f. & ef. 6-30-81; CD 56-1981, f. & ef. 12-10-81; CD 7-1986(Temp), f. 4-18-86, ef. 5-15-86; CD 24-1986, f. & ef. 8-5-86; CD 9-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 7-2003, f. & cert. ef. 4-2-03

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Department of Fish and Wildlife
Chapter 635

Adm. Order No.: DFW 21-2003(Temp)
Filed with Sec. of State: 3-19-2003
Certified to be Effective: 3-21-03 thru 9-15-03
Notice Publication Date:
Rules Adopted: 635-042-0021
Subject: Adopt rules to establish a commercial tangle net fishery in the Columbia River below Bonneville Dam.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-042-0021
Spring Chinook Tangle Net Fishery

(1) Adipose fin-clipped chinook salmon, sturgeon, and shad may be taken by tangle net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1-3 and part of Zone 4) from 9 a.m. to 7 p.m. March 21, 2003.

(2) An adipose fin clip is defined as a healed scar where the adipose fin has been removed in its entirety. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) It is *unlawful* to use other than a single-wall multifilament tangle net. Monofilament tangle nets are not allowed.

(a) Maximum mesh size is 4-1/4 inches stretched taut. Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(b) Tangle nets shall not exceed 900 feet (150 fathoms) in length.

(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) An optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(e) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(f) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in part (c) above, must have two red corks at each end of the net.

(g) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(h) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(i) 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.

(j) It is unlawful for a 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.

(k) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(l) 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) 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.

(5) 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. A tangle net certificate shall expire on December 31, 2003. No individual may obtain more than one tangle net 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 tangle net certificate in spring 2003 does not entitle the certificate holder to participate in any other fishery. If ODFW authorizes a tangle net fishery in spring 2004 or at any other time, ODFW may establish qualifications and requirements that are different from those established for 2003. In particu-

lar, ODFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

(6) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A sanctuary, Abernathy Creek, Cowlitz River, Kalama-A sanctuary, Lewis-A sanctuary, and Gnat Creek, are in effect during the open fishing period described.

Stat. Auth.: ORS 496.138, ORS 496.146, ORS 506.119
Stats. Implemented: ORS 496.162, ORS 506.129, ORS 507.030
Hist.: DFW 21-2003(Temp), f. 3-19-03, cert. ef. 3-21-03 thur 9-15-03

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Adm. Order No.: DFW 22-2003(Temp)
Filed with Sec. of State: 3-25-2003
Certified to be Effective: 3-25-03 thru 9-20-03
Notice Publication Date:
Rules Amended: 635-041-0030
Subject: Amend rules regarding size of sturgeon caught in the treaty Indian subsistence fishery.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-041-0030
***Unlawful* Subsistence Fishing Activities**

(1) It is *unlawful* to utilize any fish taken by subsistence fishing for other than subsistence purposes as defined in OAR 635-041-0010 with the exception of shad which may be sold commercially, and with the exception of dip-net-caught fish from main stem Columbia and Klickitat River subsistence areas taken during open commercial fishing seasons.

(2) It is unlawful to take sturgeon under four or over five feet in length for subsistence purposes.

Stat. Auth.: ORS 183.325 & ORS 506.119
Stats. Implemented: ORS 506.129 & ORS 507.030
Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0030; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; DFW(Temp), 37-2000, f. 6-30-00, cert. ef. 7-1-00 thru 7-10-00; DFW 22-2003(Temp), f. & cert. ef. 3-25-03 thru 9-20-03

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Adm. Order No.: DFW 23-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 3-26-03
Notice Publication Date: 2-1-03
Rules Adopted: 635-412-0020, 635-412-0025, 635-412-0030
Subject: Adopted rules to formalize the process by which fish passage requirements are met and approved at artificial obstructions requiring fish passage.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-412-0020
Fish Passage Approval

(1) No person shall construct or maintain any artificial obstruction across any waters of this state that are inhabited, or were historically inhabited, by native migratory fish without providing passage for native migratory fish.

(2) Prior to construction, fundamental change in permit status or abandonment of an artificial obstruction in any waters of this state, a person owning or operating an artificial obstruction shall obtain a determination from the Department as to whether native migratory fish are or historically have been present in the waters.

(3) If the Department determines that native migratory fish are or historically have been present in the waters, prior to construction, fundamental change in permit status, or abandonment of the artificial obstruction the person owning or operating the artificial obstruction shall either:

(a) Obtain from the Department an approval determination of a fish passage plan for the artificial obstruction. Except as provided in subsection (4), the fish passage plan shall provide for and be implemented such that adequate fish passage is installed at the artificial obstruction prior to completion of or by the end of the same in-water work period as the action which triggered fish passage requirements under subsection (2).

(b) Obtain a waiver from fish passage requirements for the artificial obstruction as provided in OAR 635-412-0025; or

(c) Obtain an exemption from fish passage requirements for the artificial obstruction as provided in OAR 635-412-0025.

(4) If an owner or operator is able to demonstrate to the Department an imminent or immediate threat to human safety which requires construction at a failed artificial obstruction prior to being able to complete the requirements of subsection (3), the Department may approve a fish passage plan in which the requirements of subsection (3) shall be met by the end of the next in-water work period or as soon as practicable. Providing passage at the time of construction is preferred.

Stat. Auth.: ORS 496.138
Stats. Implemented: ORS 509.585, ORS 509.645
Hist.: DFW 23-2003, f. & cert. ef. 3-26-03

635-412-0025
Fish Passage Waivers and Exemptions

(1) Waivers from fish passage requirements shall be granted for an artificial obstruction if the Commission (or Department, as applicable) determines that alternatives to fish passage proposed by the person owning or operating the artificial obstruction provide a net benefit to native migratory fish.

(2) Net benefit to native migratory fish is determined by comparing the benefit to native migratory fish that would occur if the artificial obstruction had fish passage to the benefit to native migratory fish that would occur using the proposed alternatives to fish passage. To qualify for a waiver of the requirement to install fish passage, alternatives to fish passage must result in a benefit to fish greater than that provided by the artificial obstruction with fish passage. The net benefit to fish determination shall be based upon conditions that exist at the time of comparison.

(3) Waivers shall be valid so long as the owner or operator continues to provide the agreed-upon mitigation measures and until the waived artificial obstruction undergoes further construction, a fundamental change in permit status, or abandonment.

(4) The Commission (or Department as applicable) may grant exemptions from fish passage requirements at an artificial obstruction if it is determined that:

(a) A lack of fish passage has been effectively mitigated;

(b) The owner or operator has received a legal waiver for the artificial obstruction from the Commission or the Department; or

(c) There is no appreciable benefit to providing fish passage.

(5) For exemptions granted under subsection (4)(a), the exemption continues only so long as the original benefit of the mitigation or alternative to fish passage is maintained.

(6) The Commission shall review, at least once every seven years, exempt artificial obstructions that do not have an exemption expiration date to determine whether the exemption should continue. The Commission may revoke or amend an exemption if it finds that circumstances have changed such that the basis for the exemption no longer applies. An exemption granted as a result of an action which triggered fish passage requirements under OAR 635-412-0020(2) tolls the trigger event until the exemption is revoked.

(7) To obtain a waiver or an exemption from fish passage requirements, an owner or operator of an artificial obstruction shall obtain from and submit to the Department an application for the waiver or exemption.

(8) Based on application review, verification and site-specific knowledge, Department staff will provide a written analysis of whether the waiver request meets the requirements of subsection (1) or the exemption request meets the requirements of subsections (4) and (5).

(9)(a) To receive a waiver, or an exemption under subsection (4)(a), an owner or operator of an artificial obstruction must enter an agreement with the Commission (or Department as applicable) that clearly describes timelines, duties, responsibilities, and options regarding the alternative to fish passage or mitigation.

(b) The agreement shall state that the alternative to fish passage or mitigation must be completed prior to completion of or by the end of the same in-water work period as the action which triggered fish passage requirements under OAR 635-412-0020(2), unless the Commission finds that additional time is necessary and appropriate given the size and scope of the project.

(10) Once the application, analysis, and a draft agreement are completed, a decision on whether the waiver or exemption will be granted will be made by:

(a) The Department:

(A) If it determines that the total stream distance, including tributaries, affected by the artificial obstruction for which the waiver or exemption is being sought is less than or equal to 2,640 feet (0.5 miles) to a natural barrier;

(B) If the request is for an exemption under subsection (4)(b); or,

(C) For re-authorization of an existing hydroelectric project subject to ORS 543A.030 to 055 and not subject to federal hydroelectric relicensing; and

(b) The Commission:

(A) In all other instances; or

(B) If the Department refers a decision to the Commission; or

(C) If the owner or operator files a protest of the Department's determination to the Commission.

(11) The decision to grant a waiver or exemption shall include the determination described in subsection (1) or (4) as well as approval of the agreement required in subsection (9).

(12) In addition to the Fish Passage Task Force as prescribed in OAR 635-412-0010(4)(e) and (g), the Department shall notify local watershed council(s), local soil and water conservation district(s), identified stakeholders, and others who have expressed an interest in fish passage issues or the specific waiver or exemption request and provide an opportunity to comment on the request at least three weeks prior to a decision on whether the waiver or exemption will be granted.

(13) The Commission (or Department, as applicable) may require further public comment prior to a decision on whether a waiver or exemption should be granted.

(14) The Department shall maintain a database of the locations of waived and exempted artificial obstructions, alternatives to fish passage, and mitigation.

Stat. Auth.: ORS 496.138
Stats. Implemented: ORS 509.585, ORS 509.645
Hist.: DFW 23-2003, f. & cert. ef. 3-26-03

635-412-0030
Fish Passage Protests

(1) A person owning or operating an artificial obstruction may request alternative dispute resolution at any point in the process of determining fish passage requirements.

(2) The owner or operator of the artificial obstruction who objects to a determination made by the Department under these rules may file a protest with the Commission. Protests shall:

(a) Only be filed if reasonable negotiations between the Department and the owner or operator have been attempted;

(b) Be submitted in writing within 30 days of receipt of a written determination from the Department;

(c) Include the grounds for protesting the Department's determination.

(3) The Commission may approve, deny, or modify the Department's determination after sufficient opportunity for public review and comment.

(4) If a protest is not filed within 30 days of receipt of a written determination from the Department, the Department's determination shall become a final order.

Stat. Auth.: ORS 496.138
Stats. Implemented: ORS 509.585, ORS 509.645
Hist.: DFW 23-2003, f. & cert. ef. 3-26-03

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Adm. Order No.: DFW 24-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 3-26-03
Notice Publication Date: 2-1-03
Rules Amended: 635-005-0190
Subject: Amended rules to require the use of approved bycatch reduction devices in the pink shrimp commercial trawl fishery.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-005-0190
Fishing Gear

(1) It is *unlawful* to take pink shrimp for commercial purposes by any means other than trawl net or pots.

(2) It is *unlawful* to fish with trawl gear for pink shrimp for commercial purposes unless an approved bycatch reduction device is used in each net. Approved bycatch reduction devices are:

(a) Soft Panel Bycatch Reduction Device uses a mesh panel to guide fish out of an escape hole. An approved soft-panel must meet the following criteria:

(A) The panel must completely cover some portion of the net in cross-section, meaning it must extend completely across the full opening of the net in one continuous piece. The panel must be securely fastened to the net around the entire perimeter, such that a 110 mm diameter sphere cannot pass beyond the panel into the terminal area of the codend;

(B) The panel meshes must be constructed of netting material with individual meshes no larger than 5.5 inches, measured between opposing knots, and must be constructed of a single panel of continuous netting, without zippers or other devices designed to allow disabling of the panel such that large fish can pass back into the codend;

(C) The escape hole must, when spread open, expose a hole of at least 100 square inches;

(D) The escape hole must be forward of the mesh panel and must begin within four meshes of the furthest aft point of attachment of the mesh panel to the net;

(b) Nordmore Grate Bycatch Reduction Device uses a rigid panel of narrowly spaced bars to guide fish out of an escape hole in front of the panel, generally in the top of the net. The panel may be hinged to facilitate rolling over a net reel. An approved Nordmore grate must meet the following criteria:

(A) The exterior circumference of the rigid panel must fit completely within the interior circumference of the trawl net, such that there is no space between the panel and the net that will allow a 110 mm sphere to pass beyond the panel, into the terminal area of the codend;

(B) None of the openings between the bars in the rigid panel may exceed two inches in width;

(C) The escape hole must, when spread open, expose a hole of at least 100 square inches;

(D) The escape hole must be forward of the rigid panel and must begin within four meshes of the furthest aft point of attachment of the rigid panel to the net.

(3) All bycatch reduction devices and codends used for trawl fishing for pink shrimp must be readily accessible and made available for inspection at the request of an authorized agent of the state. No trawl gear may be removed from the vessel prior to offloading of shrimp.

(4) It is unlawful to modify bycatch reduction devices in any way that interferes with their ability to allow fish to escape from the trawl, except for the purpose of testing the bycatch reduction device to measure shrimp loss. Authorized testing of bycatch reduction devices must meet the following criteria:

(a) Testing is allowed by special permit only, consistent with OAR 635-006-0020.

(b) For vessels fishing two nets simultaneously (double-rigged boats), while testing under the authority of a special permit, only one net may contain a disabled bycatch reduction device; the other net must be fishing a fully functional bycatch reduction device as described in subsection (2).

Stat. Auth.: ORS 506.119 & ORS 506.129
Stats. Implemented: ORS 506.119 & ORS 506.129
Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0245, Renumbered from 635-036-0155; FWC 30-1985, f. 6-27-85, ef. 7-1-85; DFW 31-2001, f. & cert. ef. 5-4-01; DFW 63-2001(Temp), f. 7-24-01, cert. ef. 8-1-01 thru 10-31-01; DFW 56-2002(Temp), f. 5-29-02, cert. ef. 7-1-02 thru 10-31-02; DFW 24-2003, f. & cert. ef. 3-26-03

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Adm. Order No.: DFW 25-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 3-26-03
Notice Publication Date: 2-1-03
Rules Amended: 635-004-0033, 635-006-0850
Subject: Amended rules to establish cumulative trip limits on cabezon and greenling, and a 35 maximum pot limit for nearshore developmental fishery permits.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-004-0033
Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

(a) Minor Nearshore Rockfish;

(b) Minor Shelf Rockfish (excluding tiger rockfish and vermillion rockfish);

(c) Minor Slope Rockfish;

(d) Black Rockfish;

(e) Cabezon;

(f) Canary Rockfish;

(g) Greenling;

(h) Tiger Rockfish;

(i) Vermillion Rockfish;

(j) Widow Rockfish;
(k) Yelloweye Rockfish;
(l) Yellowtail Rockfish;
(m) Darkblotched Rockfish;
(n) Pacific Ocean Perch;
(o) Longspine Thornyhead;
(p) Shortspine Thornyhead;
(q) Arrowtooth Flounder;
(r) Dover Sole;
(s) Petrale Sole;
(t) Rex Sole;
(u) Other Flatfish;
(v) Lingcod;
(w) Sablefish;
(x) Pacific Whiting;

(2)(a) No vessel may land more than 1,200 pounds of cabezon or 350 pounds of greenling for commercial purposes during any cumulative catch period described in subsection (b).

(b) The cumulative catch periods are: January 1 - February 28 (29); March 1 - April 30; May 1 - June 30; July 1 - August 31; September 1 - October 31; and November 1 - December 31.

Stat. Auth.: ORS 506.109 & ORS 506.119
Stats. Implemented: ORS 506.129
Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03

635-006-0850
Developmental Fisheries Species List

(1) The Developmental Fisheries species, permit and gear restrictions, and landing requirements for renewal of Category A permits are as follows:

(a) FISH:

(A) Pacific hagfish (*Eptatretus stouti*) fishery has a qualifying and annual renewal requirement of five landings. There are 25 permits for harvest of which there are no trawl permits;

(B) Blue shark (*Prionace glauca*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 10 permits for harvest of which there are no high seas drift net permits and no large mesh gill net permits. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(C) Swordfish (*Xiphias gladius*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. Permits are valid for and renewal requirements are calculated from February 1 through January 31 of the following year. There are 20 permits for harvest by floating longline and 10 permits for harvest by other gear. Specially adapted drift/gill net may be permitted. Experimental gear permits may be required. Five single-delivery permits will be issued to those who applied by annual filing date, but did not receive a Developmental Fishery Permit. Gill net gear must conform to California gear restrictions;

(D) Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasi*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(E) Pacific sardine (*Sardinops sagax*) and Pacific saury (*Cololabis saira*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 20 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. Experimental gear permits may be required. This rule incorporates, by reference, the sardine management measures for 2003 included in the Pacific Council List of Decisions for the November 2002 PFMC meeting, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations**, **Title 50 Part 660**, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone. A copy of the Pacific Council decisions and the Federal Regulations may be obtained by contacting the Fish Division at 503-872-5252;

(F) Pacific sandfish (Trichodon trichodon) fishery has a qualifying and annual renewal requirement of five landings. There are 10 permits for harvest of which there are no dredging permits and no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Permits are area specific. Experimental gear permits may be required. No permit is needed for hand lines or hand harvest;

(G) Eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 20 permits for ocean harvest of which there are no trawl permits, however, limited numbers of experimental gear permits may be issued for trawl harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(H) Pacific pomfret (*Brama japonica*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required;

(I) Slender sole (*Eopsetta exilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest. Experimental gear permits may be required.

(J) Nearshore fishery species are: Buffalo sculpin (*Enophrys bison*), Red Irish Lord (*Hemilepidotus hemilepidotus*), Brown Irish lord (*Hemilepidotus spinosus*), Cabezon (*Scorpaenichthys marmoratus*), Kelp greenling (*Hexagrammos decagrammus*), Rock greenling (*Hexagrammos lagocephalus*), Whitespotted greenling (*Hexagrammos stelleri*), Painted greenling (*Oxylebius pictus*), Kelp rockfish (*Sebastes atrovirens*), Brown rockfish (*Sebastes auriculatus*), Gopher rockfish (*Sebastes carnatus*), Copper rockfish (*Sebastes caurinus*), Black & Yellow rockfish (*Sebastes chrysomelas*), Calico rockfish (*Sebastes dalli*), Quillback rockfish (*Sebastes maliger*), Vermilion rockfish (*Sebastes miniatus*), China rockfish (*Sebastes nebulosis*), Tiger rockfish (*Sebastes nigrocinctus*), Grass rockfish (*Sebastes rastrelliger*), Olive rockfish (*Sebastes serranoides*), Treefish (*Sebastes serriceps*). Applicants for a nearshore Developmental Fisheries permit must own a vessel that has landed at least 500 lbs. of nearshore species in Oregon in any one calendar year during the window period January 1, 1997 through July 1, 2001 to qualify for a permit north of Heceta Head. The majority of qualifying landings must have been made into ports north of Heceta Head. Applicants for a nearshore Developmental Fisheries Permit must own a vessel that has landed at least 750 lbs. of nearshore species in Oregon in any one calendar year during the window period January 1, 1997 through July 1, 2001 to qualify for a permit south of Heceta Head. The majority of qualifying landings must have been made into ports south of Heceta Head. Permits will be issued for either hook-and-line gear (including pole-and-line, troll, longline, and stick gear) or traps (pots) based on gear used for the majority of qualifying landings. Permits issued for pot gear shall be limited to a maximum of 35 pots. Annual renewal requirements are at least 5 landings and a total of 100 pounds of nearshore species in Oregon. Landings of nearshore species are restricted to north of Heceta Head or south of Heceta Head based on location of majority of landings made during qualification period. After 2003, no new permits will be issued until the number of permits issued falls below 50. Thereafter, there will be 50 permits available.

(b) INVERTEBRATES:

(A) Box crab (*Lopholithodes foraminatus*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 25 permits for harvest with pots only;

(B) Grooved tanner crab (*Chionoecetes tanneri*), Oregon hair crab (Paralomis mulitspina) and scarlet king crab (*Lithodes couesi*) fishery has a qualifying and annual renewal requirement of five landings consisting of

at least 100 pounds each landing. There are 10 permits for harvest with pots only;

(C) Spot prawn (*Pandalus platyceros*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing or one landing consisting of at least 1000 pounds. After 2002, new permits for trawl gear will not be issued and trawl permits may be renewed as pot permits. After 2003, permits will be issued for pot gear only; no new permits will be issued until the number of permits issued is below 10, after which there may continue to be 10 permits. Permits are area specific. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(D) Coonstripe shrimp (*Pandalus danae*) and sidestripe shrimp (*Pandalopsis dispar*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are 10 permits for harvest by pot gear;

(E) Ocean cockle clams (*Clinocardium nuttallii*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are five permits for ocean harvest only. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(F) Bay clams including cockle clams (*Clinocardium nuttallii*), butter clams (*Saxidonus giganteus*), gaper clams (*Tresus capas, nuttallii*), native littleneck clams (*Protothaca stamines*), and softshell clams (*Mya arenaria*) fishery has no qualifying and annual renewal requirements for intertidal hand harvest, an unlimited number of permits, and a $25 permit fee. There are 11 permits (individual or vessel) for subtidal dive harvest, effective March 18, 1997-December 31, 1997, and 10 permits thereafter for statewide harvest and five permits for harvest south of Heceta Head. Qualifying requirements are either five landings consisting of at least 200 pounds each landing or an annual total of 2500 pounds for one calendar year during the qualifying period of January 1, 1990 through October 16, 1995. Annual renewal requirements are either five landings consisting of at least 100 pounds each landing or an annual total of 2500 pounds. An incidental catch of one gaper clam per eight butter clams, or 25 pounds of gaper clams per 100 pounds of butter clams, whichever allows the greater gaper clam incidental catch, is allowed during the closed season notwithstanding OAR 635-005-0020;

(G) Giant octopus (*Octopus dofleini*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest using octopus pots only;

(H) California market squid (*Loligo opalescens*) and other squid (several species) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 30 permits for harvest using trawl gear and 30 permits for harvest using other gear types. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(I) Fragile urchin (*Allocentrotus fragilis*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 500 pounds each landing. There are six permits for harvest using trawl gear and six permits for harvest using other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head;

(J) Sea cucumber (*Parastichopus spp*.) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are six permits for harvest using trawl gear, 10 permits for havest by diver, and 10 permits for harvest by other gear. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(K) Marine snails (various species) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for subtidal harvest only;

(L) Brine shrimp (*Artemia spp*.) fishery has a qualifying and annual renewal requirement of at least 5000 pounds landed. There are three permits to harvest adults.

(M) Flat abalone (*Haliotis walallensis*) fishery has a single permit authorized, a 3,000 pound annual quota limit, an annual renewal requirement of 10 landings of at least 20 pounds each landing, a 4-1/2 inch minimum size, year-round season, taken from nonintertidal areas with an abalone iron, and such additional permit conditions as the Director deems appropriate as required by OAR 635-006-870 and 635-006-0880.

(2) The Developmental Fisheries Species List, Category "B," is as follows:

(a) FISH:

(A) Salmon shark (*Lamna ditropis*);

(B) Carp (*Cyprinus carpio*);

(C) Black hagfish (*Eptatretus deani*);

(D) Yellow perch (*Perca flavescens*);

(E) Eelpouts (*family Zoarcidae*);

(F) Brown bullhead (*Ameiurus nebulosus*);

(G) Skilfish (*Erilepis zonifer*);

(H) Northern squawfish (*Ptychocheilus oregonensis*).

(b) INVERTEBRATES:

(A) Euphausids (krill) (*family Euphausidae*);

(B) Pacific sand crab (*Emerita analoga*);

(C) Freshwater mussels (*families Margaritifera, Anodonta, Gonidea, and Corbicula*).

(3) The Developmental Fisheries Species List, Category "C," is as follows:

(a) FISH:

(A) Spiny dogfish (*Squalus acanthias*);

(B) Soupfin shark (*Galeorhinus zyopterus*);

(C) Skate (*family Rajidae*);

(D) American shad (*Alosa sapidissima*);

(E) Pacific cod (*Gadus macrocephalus*);

(F) Pacific flatnose (*Antimora microlepis*);

(G) Pacific grenadier (*Coryphaenoides acrolepis*);

(H) Jack mackerel (*Trachurus symmetricus*);

(I) Chub (Pacific) mackerel (*Scomber japonicus*);

(J) Greenstriped rockfish (*Sebastes elongatus*);

(K) Redstripe rockfish (*Sebastes proriger*);

(L) Shortbelly rockfish (*Sebastes jordani*);

(M) Sharpchin rockfish (*Sebastes zacentrus*);

(N) Splitnose rockfish (*Sebastes diploproa*);

(O) Pacific sanddab (*Citharichthys sordidus*);

(P) Butter sole (*Pleuronectes isolepis*);

(Q) English sole (*Pleuronectes vetulus*);

(R) Rex sole (*Errex zechirus*);

(S) Rock sole (*Pleuronectes bilineatus*);

(T) Sand sole (*Psettichthys melanostictus*);

(U) Curlfin (lemon) sole (*Pleuronichthys decurrens*);

(V) Spotted ratfish (*Hydrolagus colliei*);

(W) Wolf-eel (*Anarrhichthys ocellatus*);

(X) Walleye pollock (*Theragra chalcogramma*). (L) Chub (Pacific) mackerel (*Scomber japonicus*);

(b) INVERTEBRATES:

(A) Red rock crab (*Cancer productus*);

(B) Purple sea urchins (*Strongylocentrotus purpuratus*);

(C) Crayfish (*Pacifastacus leniusculus*).

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129, ORS 506.450, ORS 506.455, ORS 506.460 & ORS 506.465

Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 87-1995, f. 11-17-95, cert. ef. 11-20-95; FWC 1-1997, f. & cert. ef. 1-16-97; FWC 18-1997(Temp), f. & cert. ef. 3-18-97; FWC 34-1997, f. 6-11-97, cert. ef. 6-15-97; DFW 3-1998, f. & cert. ef. 1-12-98; DFW 17-1998(Temp), f. & cert. ef. 3-6-98 thru 7-31-98; DFW 93-1998, f. & cert. ef. 11-25-98; DFW 85-1999, f. & cert. ef. 11-1-99, DFW 89-1999, f. & cert. ef. 11-15-99; DFW 76-2000, f. 11-21-00, cert. ef. 1-1-01; DFW 30-2001, f. & cert. ef. 5-4-01; DFW 119-2001, f. & cert. ef. 12-24-01; DFW 116-2002, f. & cert. ef. 10-21-02; DFW 117-2002, f. & cert. ef. 10-21-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 25-2003, f. & cert. ef. 3-26-03

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Adm. Order No.: DFW 26-2003(Temp)
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 4-15-03 thru 7-31-03
Notice Publication Date:
Rules Amended: 635-018-0090
Subject: Amend rules to allow the harvest of hatchery spring chinook in the Deschutes River.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-018-0090
Inclusions and Modifications

(1) The **2003 Oregon Sport Fishing Regulations** as posted on the Department's web page www.dfw.state.or.us provide requirements for the Central 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 Deschutes River from the mouth at the I-84 bridge upstream to Sherars Falls is open to angling for trout, steelhead, and adipose fin-clipped chinook salmon from April 15, 2003 to July 31, 2003.

(a) Catch limits and restrictions applying to trout and steelhead remain unchanged from those listed in the *2003 Oregon Sport Fishing Regulations* for Area 1 of the Deschutes River or as amended by other temporary or permanent administrative rule(s);

(b) The bag limit is two adult adipose fin-clipped salmon per day, and five adipose fin-clipped jack salmon per day. All nonadipose fin-clipped chinook salmon must be released unharmed;

(c) It is *unlawful* to angle for steelhead or trout between Sherars Falls and the upper railroad trestle (three miles) after taking a daily bag limit of adult chinook salmon.

Stat. Auth.: ORS 496.138 & ORS 496.146
Stats. Implemented: ORS 496.162
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96, FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp) f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99;DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03

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Adm. Order No.: DFW 27-2003(Temp)
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 3-28-03 thru 6-6-03
Notice Publication Date:
Rules Amended: 635-075-0029
Subject: This temporary rule amends the information and fee submission deadline for Outfitters and Guides who are successful in the drawing; the deadline is extended from April 1 to April 15.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-075-0029
Tag Purchasing Requirements

(1) The department will notify outfitters and guides of the drawing results by December 31 of each year.

(2) On or before April 15 of each year Outfitters and Guides who are successful in the drawing must:

(a) Submit to the department the names, addresses, proof of nonresidency, and hunting license numbers (if already purchased) of the nonresidents for whom tags are to be issued. For the purpose of these rules: Proper identification for nonresident documents includes an out-of-state driver's license. If an applicant does not have a driver's license, then a combination of three pieces of identification are required including utility bill, rent receipt, passport, birth certificate, social security card, major credit card, medical card, marriage license, voter's registration card, library card, or military ID. One piece must show name and current address outside the state of Oregon.

(b) Submit to the department all required fees. Outfitters and guides must submit all fees; they will not be accepted from nonresident applicants to whom the tags will be issued. The department shall not issue a tag to any person who does not have a valid nonresident Oregon hunting license.

NOTE: Fees for Outfitter and Guides tags are twice the amount of a nonresident tag as described in ORS 497.112.

(c) No later than July 31 the department will issue to outfitters and guides all requested tags for which they have met requirements.

Stat. Auth.: ORS 496.012, ORS 496.138 & ORS 497.112
Stats. Implemented: ORS 496.012, ORS 496.138 & ORS 497.112
Hist.: FWC 73-1997, f. & cert. ef. 12-29-97; 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 27-2003(Temp), f. & cert. ef. 3-28-03 thru 6-6-03

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Adm. Order No.: DFW 28-2003(Temp)
Filed with Sec. of State: 4-3-2003
Certified to be Effective: 4-3-03 thru 7-1-03
Notice Publication Date:
Rules Amended: 635-023-0090
Subject: Amend rules to implement sportfishing closures on 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 provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted from time to time, and, to the extent of any inconsistency, they supersede the **2003 Oregon Sport Fishing Regulations**.

(2) The Columbia River is closed to angling for salmon, steelhead, and shad from the I-5 Bridge upstream to Bonneville Dam effective April 6, 2003 through May 15, 2003. The Columbia River from the mouth at Buoy 10 upstream to the the I-5 Bridge is closed to angling for salmon, steelhead, and shad on Sundays, Mondays, and Tuesdays, effective April 6, 2003 through May 15, 2003. The Columbia River is open from January 1, 2003 through May 15, 2003, from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained; all nonadipose fin-clipped chinook salmon and steelhead must be released immediately unharmed;

(b) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per printed regulation pamphlet.

(3) The Columbia River is closed to the retention of sturgeon from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam from March 24, 2003 through June 30, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

Stat. Auth.: ORS 496.138, ORS 496.146 & ORS 506.119
Stats. Implemented: ORS 496.162 & ORS 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 19-1994(Temp), f. 3-31-94, cert. ef. 4-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 46-1994(Temp), f. 7-29-94, cert. ef. 8-1-94; FWC 52-1994(Temp), f.8-24-94, cert. ef. 8-27-94; FWC 62-1994(Temp), f. 9-12-94, cert. ef. 9-16-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 72-1994(Temp), f. 10-7-94, cert. ef. 10-8-94; FWC 8-1995, f. 2-1-95, cert. ef. 2-6-95; FWC 11-1995, f. & cert. ef. 2-9-95; FWC 14-1995(Temp), f. 2-15-95, cert. ef. 2-16-95; FWC 31-1995(Temp), f. 4-21-95, cert. ef. 4-24-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 61-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 67-1995(Temp), f. 8-25-95, cert. ef. 8-27-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 12-1996(Temp), f. 3-26-96, cert. ef. 4-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 49-1996(Temp), f. & cert. ef. 8-30-96; FWC 72-1996 f. 12-31-96, cert. ef. 1-1-97; FWC 7-1997(Temp), f. 2-6-97, cert. ef. 3-11-97; FWC 10-1997, f. & cert. ef. 2-28-97; FWC 11-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; FWC 22-1997(Temp), f. 4-2-97, cert. ef. 4-5-97; FWC 28-1997(Temp), f. 5-2-97, cert. ef. 5-5-97; FWC 50-1997(Temp), f. 8-26-97, cert. ef. 9-2-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 29-1998(Temp), f. 4-16-98, cert. ef. 4-20-98 thru 4-24-98; DFW 32-1998(temp), f. & cert. ef. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 46-1998, f. & cert. ef. 6-9-98; DFW 78-1998(Temp), f. 9-18-98, cert. ef. 9-21-98 thru 9-25-98; DFW 81-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 85-1998(Temp), f. & cert. ef. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cert. ef. 11-23-98 thru 12-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 13-1999(Temp), f. 3-2-99, cert. ef. 3-11-99 thru 6-15-99; DFW 23-1999(Temp), f. 4-9-99, cert. ef. 4-17-99 thru 4-23-99; DFW 25-1999, f. & cert. ef. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 42-1999(Temp), f. 6-9-99, cert. ef. 6-12-99 thru 10-20-99; DFW 50-1999(Temp), f. & cert. ef. 7-16-99 thru 12-9-99; DFW 60-1999(Temp), f. 8-27-99, cert. ef. 8-30-99 thru 9-17-99; DFW 64-1999(Temp), f. 9-13-99, cert. ef. 9-14-99 thru 9-17-99; DFW 67-1999(Temp), f. & cert. ef. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cert. ef. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cert. ef. 10-1-99 thru 12-31-99; DFW 78-1999 f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 11-2000(Temp), f. 3-14-00, cert. ef. 3-16-00 thru 3-31-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-27, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 7-2001(Temp), f. & cert. ef. 2-26-01 thru 4-30-01; DFW 17-2001(Temp), f. 4-4-01, cert. ef. 4-9-01 thru 10-6-01; DFW 18-2001(Temp) f. & cert. ef. 4-12-01 thru 4-30-01; DFW 19-2001(Temp), f. 4-17-01, cert. ef. 4-21-01 thru 8-5-01; DFW 25-2001(Temp), f. 4-24-01, cert. ef. 4-25-01 thru 4-29-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2001(Temp), f. & cert. ef. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f. & cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-

01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02,cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03

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Adm. Order No.: DFW 29-2003(Temp)
Filed with Sec. of State: 4-9-2003
Certified to be Effective: 4-9-03 thru 10-1-03
Notice Publication Date:
Rules Amended: 635-060-0046
Subject: Amend rule to reinstate preference points for successful applicants of the 2002 Powers Unit Controlled Elk Bow Hunt (Hunt 226R).
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-060-0046
Lost Tags and Tag Exchanges

(1) A fee of $5.00 and a $1.50 license agent fee is charged to replace or exchange a tag or permit. Duplicates and exchanges may be obtained only through the Portland headquarters, regional offices of the department, and designated district offices. Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Portland or regional office of the department if the department determines that the person never received the original controlled tag or permit mailed from the Portland office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-075-0001. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f), (g), or (h).

(7) In situations involving national security emergency, the Commission shall accommodate individuals who lose hunting opportunities because of being called to service in the national interest:

(a) The Commission shall (as specified in paragraph (b)) accommodate the following individuals called to service because of national emergency: regular members of the United States Armed Forced (Army, Navy, Air Force, Marines, Coast Guard), members of the United States military reserves, and members of the National Guard.

(b) The Commission authorizes the Director to make such accommodation by:

(A) Allowing an individual to hunt during the same hunt period for the same species in a later year for bighorn sheep, Rocky Mountain goat, and pronghorn antelope; or

(B) Refunding general or controlled season tag fees and reinstating preference points existing for a series, plus an additional point for participating in the drawing. (Original tag must be returned to ODFW and no refund is available for the hunting license).

(c) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Wildlife Division headquarters office within one year of loss of hunting opportunity. Each request must include a copy of military orders documenting service dates or date of service status change. Each request must include proof of tag draw success and tag purchase.

(8) Due to extreme dry conditions and associated fire closures on public and private lands, the Department will reinstate preference points for individuals who successfully drew a 2002 Powers Unit Controlled Elk Bow Tag (226R). This reinstatement will involve preference points used to acquire the tag plus one preference point for participating in the controlled hunt drawing.

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 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 55-1992(Temp), f. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; 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 52-2001(Temp) f. & cert. ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & cert. ef. 2-12-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 36-2002(Temp), f. & cert. ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & cert. ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & cert. ef. 4-9-03 thru 10-1-03

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Adm. Order No.: DFW 30-2003(Temp)
Filed with Sec. of State: 4-15-2003
Certified to be Effective: 4-15-03 thru 10-6-03
Notice Publication Date:
Rules Adopted: 635-043-0056
Subject: Adopt rules to authorize Oregon Department of Fish and Wildlife to hunt or trap and relocate nuisance wildlife found within the city limits of Baker City.
Rules Coordinator: Mike Lueck—(503) 872-5272, ext. 5447

635-043-0056
Trapping of Wildlife

(1) For the purpose of alleviating a public nuisance or preventing property damage, the Department may trap and relocate wild turkeys found within the Roseburg city limits.

(2) For the purpose of alleviating a public nuisance or preventing property damage, the Department may hunt or trap and relocate wildlife found within the city limits of Baker City.

Stat. Auth.: ORS 498.158
Stats. Implemented: ORS 498.158
Hist.: DFW 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-9-03; DFW 30-2003(Temp), f. & cert. ef. 4-15-03 thru 10-6-03

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Department of Human Services, Child Welfare Programs
Chapter 413

Adm. Order No.: CWP 22-2003
Filed with Sec. of State: 3-19-2003
Certified to be Effective: 3-19-03
Notice Publication Date: 1-1-03
Rules Adopted: 413-020-0275, 413-020-0285
Subject: These permanent rules replace temporary rules that had been filed on January 23, 2003 to provide requirements for Cross Reporting from the Department of Human Services to the Law Enforcement Agencies regarding reports of child abuse. Revisions have been made to simplify and clarify the rule language. No substantive changes have been made from the temporary rules.
Rules Coordinator: Barbara J. Carranza—(503) 945-6649

413-020-0275
Cross Reporting Defined

The Department of Human Services (Department) and law enforcement agencies (LEA) are required by ORS 419B.015 to notify each other when a report of child abuse is received. This process is known as cross reporting, and the notification is called a cross report. The following rule explains when and how a report of child abuse received by the Department is cross reported. "Abuse" means any form of abuse, including abuse through neglect and abuse by a third party, as defined in ORS 419B.005(1)(a).

Stat. Auth.: ORS 409.050 & ORS 418.005
Stats. Implemented: ORS 419B.005 - ORS 419B.045
Hist.: CWP 17-2003(Temp), f. & cert. ef. 1-23-03 thru 3-18-03; CWP 22-2003, f. & cert. ef. 3-19-03

413-020-0285
Cross Reporting Requirements

(1) The Department screens reports of child abuse in accordance with the screening rules in this division of rules. If the Department's screener for child protective services (screener) determines that information received constitutes a report of child abuse, the screener must cross report the case to an appropriate law enforcement agency in the county where the report was made. If the abuse is alleged to have occurred in a different county, the screener may also cross report to an appropriate law enforcement agency in the county where the abuse occurred. Included in the cases described above in this rule that must be cross reported is the case in which the Department receives information alleging abuse of a child who is the subject of an open Department child welfare case.

(2) Cross reporting requirements. Cross reporting must be completed in the manner and within the timeframes described in this section.

(a) Cross Report, Immediate. When the screener determines that a report of alleged child abuse requires an immediate response (see the rules on screening in this division of rules), the screener must cross report without delay by contacting the appropriate LEA by telephone, by providing necessary information to the LEA, and by requesting immediate assistance from the LEA. In addition to the telephone cross report, a completed screening report must be provided to the LEA if the Department and LEA do not respond to the report of abuse together. If the Department and LEA respond to the report of abuse together, a completed screening report need not be provided to the LEA.

(b) Cross Report, Non-Immediate. When the screener determines that a report of child abuse does not require an immediate response but is assigned for field assessment, the screener must ensure that a cross report is made by fax or other expedited process the same day the Department receives the report. The cross report can be delayed until the screening is completed, except the cross report cannot be delayed past the second calendar day following the day the Department receives the report of abuse.

(c) Cross Report, Closed at Screening. When the screener determines that no Department response is required and that the report will be closed at screening, the screener must ensure that the cross report is made the same day that the determination is made.

(3) Cross reporting, supplemental information. The Department may receive information not previously cross reported but apparently related to an allegation of abuse involving the same victim and the same alleged perpetrator that has previously been cross reported. In that event, the screener must proceed as follows:

(a) If the information relates to the same instance of abuse, the screener must make a supplemental cross report of the additional information to each LEA that received the prior cross report. The supplemental information is cross reported using the same timeframes used for the original report of abuse, found in section (2) of this rule.

(b) If the information includes a previously unreported instance of abuse or a different reporter of abuse, victim, or alleged perpetrator, the screener must treat the report as a new report of child abuse.

(4) Cross report not required. A cross report is not required:

(a) If, after screening is completed, the screener determines that the information received does not constitute a report of child abuse.

(b) If, after screening is completed, the screener determines that the information received is from a reporter of child abuse who previously made the same allegation regarding the same victim and the same alleged perpetrator and that the reporter has provided no additional information.

(5) Administrative Requirements:

(a) Local policy. Each local office must have a written protocol for tracking cross reports sent from and received by the local office.

(b) Office log. Each local office must maintain a log to track cross reports sent from the office.

(c) Contents of cross report. The Department uses its form DHS 311, or equivalent, to make cross reports. A cross report must include, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse — including any evidence of previous abuse, the explanation given for the abuse, and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(d) Verification by supervisor. The screening supervisor must verify daily that cross reports are made of all cases required to be cross reported by reviewing and signing a list of cases that have been cross reported.

Stat. Auth.: ORS 409.050 & ORS 418.005
Stats. Implemented: ORS 419B.005 - ORS 419B.045
Hist.: CWP 17-2003(Temp), f. & cert. ef. 1-23-03 thru 3-18-03; CWP 22-2003, f. & cert. ef. 3-19-03

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

Adm. Order No.: OMAP 19-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 12-1-02
Rules Adopted: 410-120-1570, 410-120-1685
Rules Amended: 410-120-1360, 410-120-1520, 410-120-1540, 410-120-1560, 410-120-1580, 410-120-1600, 410-120-1640, 410-120-1660, 410-120-1680
Rules Renumbered: 410-120-1620 to 410-120-1565
Subject: The General Rules program Administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-120-1685 is adopted to describe the department's current method for claim refund/recoupment process, how recoupment happens, where to send refund checks, etc. Rule 410-120-1570 is adopted to allow providers "levels of appeal" to request reconsideration of claim disputes. Rule 410-120-1360 is revised to add confidentiality language for fee-for-service providers related to medical record keeping. Rule 410-120-1520 and 410-120-1540 are revised to clarify that these rules are based upon recoveries due to provider audits. Rules 410-120-1560, 410-120-1580, 410-120-1600, 410-120-1640, 410-120-1660 and 410-120-1680 are revised to clarify the administrative review process.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1360
Requirements for Financial, Clinical and Other Records

The Medical Assistance Program is responsible for analyzing and monitoring the operation of the Medical Assistance Program and for auditing and verifying the accuracy and appropriateness of payment, utilization of services, medical necessity medical appropriateness, the quality of care, and access to care. The provider and/or the provider's designated billing service or other entity responsible for the maintenance of financial, clinical, and other records, shall:

(1) Develop and maintain adequate financial and clinical records and other documentation which supports the specific care, items, or services for which payment has been requested. Payment will be made only for services which are adequately documented. Documentation must be completed before the service is billed to the Medical Assistance Program:

(a) All records must document the specific service provided, the number of services or items comprising the service provided, the extent of the service provided, the dates on which the service was provided, and the individual who provided the service. Patient account and financial records must also include documentation of charges, identify other payment resources pursued, indicate the date and amount of all debit or credit billing actions, and support the appropriateness of the amount billed and paid. For cost reimbursed services, the provider is required to maintain adequate records to thoroughly explain how the amounts reported on the cost statement were determined. The records must be accurate and in sufficient detail to substantiate the data reported;

(b) Clinical records, including records of all therapeutic services, must document the client's diagnosis and the medical need for the service. The client's record must be annotated each time a service is provided and signed or initialed by the individual who provided the service or must clearly indicate the individual(s) who provided the service. Information contained in the record must be appropriate in quality and quantity to meet the professional standards applicable to the provider or practitioner and any additional standards for documentation found in this rule, the individual provider guide and any pertinent contracts.

(c) Have policies and procedures to ensure the maintenance of the confidentiality of medical record information. These procedures ensure the provider may release such information in accordance with federal and state statutes, ORS 179.505 through 179.507, 411.320, 433.045, 42 CFR part 2, 42 CFR subpart F, 45 CFR 205.50, including ORS 433.045(3) with respect to HIV test information.

(2) Retain clinical records for seven years and financial and other records described in subsections (a) and (b) of this rule for at least five years from the date(s) of service.

(3) Upon written request from the Medical Assistance Program, the Medicaid Fraud Unit, Oregon Secretary of State, or the Department of Health and Human Services, or their authorized representatives, furnish requested documentation immediately or within the time-frame specified in the written request. Copies of the documents may be furnished unless the originals are requested. At their discretion, official representatives of the Medical Assistance Program, Medicaid Fraud Unit, or Department of Health and Human Services, may review and copy the original documentation in the provider's place of business. Upon the written request of the provider, the Program or the Unit may, at their sole discretion, modify or extend the time for provision of such records if, in the opinion of the Program or Unit good cause for such extension is shown. Factors used in determining whether good cause exists include:

(a) Whether the written request was made in advance of the deadline for production;

(b) If the written request is made after the deadline for production, the amount of time elapsed since that deadline;

(c) The efforts already made to comply with the request;

(d) The reasons the deadline cannot be met;

(e) The degree of control that the provider had over its ability to produce the records prior to the deadline;

(f) Other extenuating factors.

(4) Access to records, inclusive of medical charts and financial records does not require authorization or release from the client if the purpose of such access is:

(a) To perform billing review activities; or

(b) To perform utilization review activities; or

(c) To review quality, quantity, medical appropriateness of care, items, and services provided; or

(d) To facilitate payment authorization and related services; or

(e) To investigate a client's fair hearing request; or

(f) To facilitate investigation by the Medicaid Fraud Unit or the Department of Health and Human Services; or

(g) Where review of records is necessary to the operation of the program.

(5) Failure to comply with requests for documents and within the specified time-frames means that the records subject to the request may be deemed by the Medical Assistance Program not to exist for purposes of verifying appropriateness of payment, medical appropriateness, the quality of care, and the access to care in an audit or overpayment determination, and accordingly subjects the provider to possible denial or recovery of payments made by the Medical Assistance Program or to sanctions.

[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. 8-11-784; 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 461-013-0060; 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; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; 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 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1520

Denial or Recovery of Reimbursement Resulting from Medical Review

(1) The Medical Assistance Program's medical staff or medical review contractor may review a claim before or after payment for assurance that the specific care, item or service was provided in accordance with the Medical Assistance Program's policy and rules and the generally accepted standards of a provider's field of practice or specialty.

(2) Payment may be denied or subject to recovery if medical review determines the service does not meet the criteria for quality of care, or medical appropriateness of the care or payment. Related practitioner and hospital billings will also be denied or subject to recovery.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 409.010

Hist.: AFS 4-1984, f. & ef. 2-1-84; AFS 38-1986, f. 4-29-86, ef. 6-1-86; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0189; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0720; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1540

Recovery of Overpayments to Providers resulting from medical review/audit

(1) When the Medical Assistance Program determines that an overpayment has been made to a provider, the amount of overpayment is subject to recovery:

(a) To determine the overpayment amount, the Medical Assistance Program may use the random sampling method such as that detailed in the paper entitled "Development of a Sample Design for the Post-Payment Review of Medical Assistance Payments," written by Lyle Calvin, Ph.D., ("Calvin Paper"). The Medical Assistance Program hereby adopts by reference, but is not limited to, the method of random sampling described in the Calvin Paper;

(b) After the Medical Assistance Program determines an overpayment amount by the random sampling method set forth in subsection (a) of this rule, the provider may request a 100 percent audit of all billings submitted to the Medical Assistance Program for services provided during the period in question. If a 100 percent audit is requested:

(A) Payment and arrangement for a 100 percent audit is the responsibility of the provider requesting the audit; and

(B) The audit must be conducted by a certified public accountant who is knowledgeable with the Oregon Administrative Rules covering the payments in question, and must be conducted within 120 calendar days of the request to use such audit in lieu of the Medical Assistance Program's random sample.

(2) The amount of medical review overpayment to be recovered:

(a) Will be the entire amount determined or agreed to by the Medical Assistance Program; and

(b) Is not limited to amount(s) determined by criminal or civil proceedings;

(c) Will include interest to be charged at allowable State rates.

(3) The Medical Assistance Program will deliver to the provider by registered or certified mail or in person a request for repayment of the overpayment and the documentation to support the alleged amount.

(4) If the provider disagrees with the Medical Assistance Program's determination and/or the amount of overpayment the provider may appeal the decision by requesting a contested case hearing or administrative review:

(a) A written request for hearing or administrative review of the decision being appealed must be submitted to the Medical Assistance Program by the provider pursuant to OAR 410-120-1660, Provider Appeal — Hearing Request. The request must specify the area(s) of disagreement;

(b) Failure to request a hearing or administrative review in a timely manner constitutes acceptance by the provider of the amount of the overpayment.

(5) The overpayment is due and payable 30 calendar days from the date of the decision by the Medical Assistance Program:

(a) An additional 30 day grace period may be granted the provider upon request to the Medical Assistance Program;

(b) A request for a hearing or administrative review does not change the date the repayment of the overpayment is due.

(6) The Medical Assistance Program may extend the reimbursement period or accept an offer of repayment terms. Any change in reimbursement period or terms must be made in writing by the Medical Assistance Program.

(7) If the provider refuses to reimburse the overpayment or does not adhere to an agreed upon payment schedule, the Medical Assistance Program may:

(a) Recoup future provider payments up to the amount of the overpayment; and/or

(b) Pursue civil action to recover the overpayment.

(8) As the result of a hearing or review the amount of the overpayment may be reduced in part or in full.

(9) The Medical Assistance Program may, at any time, change the amount of the overpayment upon receipt of additional information. Any changes will be verified in writing by the Medical Assistance Program. Any monies paid to the Medical Assistance Program which exceed an overpayment will be refunded to the provider.

(10) If a provider is terminated or sanctioned for any reason the Medical Assistance Program may pursue civil action to recover any amounts due and payable to the Medical Assistance Program.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 409.010

Hist.: AFS 87-1980, f. 12-8-80, ef. 1-1-81; Renumbered from 461-013-0111; 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 52-1988, f. & cert. ef. 8-4-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0190; HR 32-1990, f. 9-24-90, cert. ef. 10-1-90; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0740; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1560
Provider Appeals

Effective for services provided on or after December 1, 2000. A provider may appeal certain decisions affecting the provider made by the Medical Assistance Program. There are three levels of appeal. Level 1 is a reconsideration on a claim(s). Level 2 is an administrative review and Level 3 is a contested case hearing; as outlined in OAR 410-120-1580, Provider Appeals — Administrative Review, through 410-120-1820, Provider Hearings — Hearing Attendance.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; 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; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 0461-013-0191; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0780; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 41-2000, f. & cert. ef. 12-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1565
Provider Appeals — Appeal of Payment/Sanction Decisions

Providers may appeal:

(1) A denial of or limitation of payment allowed for services or items provided;

(2) A denial of provider's application for or continued participation in the Medical Assistance Program; or

(3) Sanctions imposed, or intended to be imposed, by the Medical Assistance Program on a provider or provider entity; and

(4) Overpayment determinations.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; 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; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0191; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0840; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03, Renumbered from 410-120-1620

410-120-1570
Provider Appeals (Level 1) — Claims Reconsideration

A provider disputing OMAP's claim(s) decision may request reconsideration. The provider must submit the request in writing to OMAP, Provider Services Unit. The request must include the reason for the dispute, and any information pertinent to the outcome of the dispute. OMAP will complete an additional review and respond back to the provider in writing. If the provider is not satisfied with the review, the provider may request an Administrative Review or Contested Case Hearing as outlined in OAR 410-120-1580 through 410-120-1820.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1580
Provider Appeals (Level 2) — Administrative Review

(1) An administrative review allows an opportunity for the Director of the Medical Assistance Program or designee to reconsider a decision affecting the provider. The appeal may include the provision of new information or other actions that may result in the Medical Assistance Program, or prepaid health plan contractor, changing its decision. The request for an administrative review:

(a) Must be in writing to the Director of OMAP;

(b) Must specify the issues or decisions being appealed and the reason for the appeal on each issue or decision. Give specifics for each claim such as procedure code, diagnosis code, reason for denial, administrative rule violated, and why the provider feels the outcome should be different. If all information is not included in the request, your request will be returned and you will need to resubmit;

(c) For clients enrolled in a managed care organization, the provider must exhaust all levels of the appeals process outlined by the enrollee's managed care organization prior to submitting an appeal to the Director (par and non-par providers). The MCO will be contacted to provide information in support of their decision. Provider must submit documentation that reflects completion of the review with the managed care plan;

(d) Must be filed and received by the Director of OMAP within 30 days of decision from OMAP or the final decision from the managed care plan.

(2) The Director of OMAP or designee will decide which decisions may be reviewed as administrative review or referred directly for a contested case hearing under this rule. If the Director denies a request for an administrative review, the provider may within thirty days of the denial make a written request for a contested case hearing subject to OAR 410-120-1620, Provider Appeals — Appeal of Payment Decisions.

(3) If the Director decides that a meeting between the provider and Medical Assistance Program staff is required, the Director will:

(a) Notify the provider requesting the review of the date, time, and place the meeting is scheduled;

(b) Notify the MCO (when client is enrolled in an MCO) of the date, time, and place the meeting is scheduled. The MCO is not required to participate, but is invited to participate in the process.

(4) The review meeting will be conducted in the following manner:

(a) It will be conducted by the Director of the Office of Medical Assistance Programs, or designee;

(b) No minutes or transcript of the review will be made;

(c) The provider requesting the review does not have to be represented by counsel and will be given ample opportunity to present relevant information;

(d) Medical Assistance Program staff will not be available for cross examination;

(e) Failure to appear constitutes acceptance of OMAP determination;

(f) The Director of OMAP or designee may request the provider making the appeal to submit, in writing, new information that has been presented orally. In such an instance, a specific date for receiving such information will be established.

(5) The results of the administrative review will be sent to all providers involved in the review, in writing, within 30 days of the Administrative Review decision.

(6) All administrative review decisions are subject to judicial review under ORS 183.484 in the Circuit Court.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: 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 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0191 & 461-013-0220; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0800; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1600
Provider Appeals (Level 3) — Contested Case Hearings

Effective for services provided on or after December 1, 2000:

(1) OAR 410-120-1620, Appeal of Payment Decisions, to OAR 410-120-1820, Provider Hearings — Hearing Attendance, are the procedural rules applying to contested case hearings conducted by the Medical Assistance Program.

(2) All contested case hearing decisions are subject to judicial review under ORS 183.482 in the Court of Appeals.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; 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; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0191 & 461-013-0225; 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 410-120-0820; OMAP 41-2000, f. & cert. ef. 12-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1640
Provider Appeals — Contested Case Hearing Definitions

Effective for services provided on or after December 1, 2000. For purposes of hearings held under OAR 410-120-1600, Provider Appeals — Contested Case hearings — to 410-120-1820, Provider Hearings — Hearings Attendance, the following terms have these meanings:

(1) "Provider": A person or business entity who/which has requested a hearing. The term provider may also refer to the provider's representative where appropriate.

(2) "Medical Assistance Program": refers to the Division or Office within the Department of Human Services whose administrative action is being contested.

(3) "Medical Assistance representative": The Assistant Attorney General who represents the Medical Assistance Program, or a person des-

ignated by the Medical Assistance Program to act as a representative at the hearing, pursuant to OAR 410-120-1875.

(4) "Party": The provider or the prepaid health plan provider, or the Medical Assistance program (even though the Medical Assistance Program is not legally a party in these proceedings).

(5) "Prepaid Health Plan Provider": A Managed Care Plan that contracts with the Medical Assistance Program to provide services to clients, whose action is being contested.

(6) "Request for a hearing": A clear, written expression from the provider expressing disagreement with a decision by the Medical Assistance Program. The provider must specify the issues or decisions being appealed and the reason for the appeal on each issue or decision.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; 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; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0191; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0860; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 41-2000, f. & cert. ef. 12-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1660
Provider Appeals — Contested Case Hearing Request

(1) A request for a contested case hearing is considered filed when the written request is received by the Director of OMAP or by the person designated by the Director, within thirty (30) calendar days of the date of the decision affecting the provider.

(2) An untimely hearing request will be denied after consideration by the Hearing Officer, unless it was untimely due to circumstances beyond the control of the provider.

(3) A contested case hearing will be denied, by order, upon the determination by the Hearing Officer that the issue being protested is not subject to the hearing process.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 51-1985, f. 8-16-85, ef. 9-1-85; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0195; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-120-0880; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1680
Provider Appeals — Contested Case Pre-Hearing Conference

(1) After a hearing is requested, the Medical Assistance Program shall notify the provider(s) of the time and place of a pre-hearing conference. The purposes of this conference are:

(a) To provide an opportunity for the parties to settle the matter;

(b) To make sure the parties understand the reason for the action which is the subject of the hearing request;

(c) To give the parties an opportunity to review the information which is the basis for that action;

(d) To give the parties the chance to correct any misunderstanding of the facts; and

(e) To determine if the parties wish to have any witness subpoenas issued.

(2) The provider(s) shall participate in the pre-hearing conference or provide to the Medical Assistance Program a statement of the issues being contested, including a detailed statement of the basis for the provider's disagreement.

(3) The Medical Assistance Program may grant to the provider the relief sought at any time.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 409.010
Hist.: AFS 51-1985, f. 8-16-85; HR 2-1990, f.2-12-90, cert. ef. 3-1-90; Renumbered from 461-013-0205; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; Renumbered from 410-012-0900; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

410-120-1685
Recovery of Overpayments to Providers — Recoupments and Refunds

(1) The department may determine, as a result of review or other information, that an overpayment has been made to a provider, which indicates that a provider may have submitted bills and/or received payment to which he or she is not properly entitled. Such requests for refunds and recoupments may be based on, but not limited to, the following grounds:

(a) The department paid the provider an amount in excess of the amount authorized under the state plan or other policy of the department;

(b) A third party paid the provider for services (or a portion thereof) previously paid by the department;

(c) The department paid the provider for services, items, or drugs that the provider did not perform or provide;

(d) The department paid for claims submitted by a data processing agent for whom a written provider/billing agent agreement was not on file at the time of submission;

(e) The department paid for services and later determined they were not part of the client's benefit package;

(f) Data processing submission/entry errors.

(2) When an overpayment is identified, the provider will be notified, in writing, as to the nature of the discrepancy, the method of computing the dollar amount of the overpayment, and any further action which the department may take in the matter;

(3) The department may recover overpayments made to a provider by direct reimbursement, offset, civil action, or other actions authorized by law:

(a) Direct Reimbursement. Unless other regulations apply, the provider must reimburse the Department within thirty (30) calendar days from the date of the notice of the overpayment;

(b) Offset. The Department may withhold payment on pending claims and on subsequently received claims for the amount of the overpayment when overpayments are not paid as a result of Section (3)(b);

(c) Civil Action. The department may file a civil action in the appropriate Court and exercise all other civil remedies available to the Department in order to recover the amount of an overpayment;

(4) When the provider determines that an overpayment has been made, the provider shall notify and reimburse the department immediately, following one of the reimbursement procedures described below:

(a) Submitting a Medicaid adjustment form (OMAP 1036-Individual Adjustment Request). It is not necessary to refund with a check;

(b) Providers preferring to make a refund by check, attach a copy of the remittance statement page indicating the overpayment information. If the overpayment involves an insurance payment or another third party resource, attach a copy of the remittance statement from the insurance.

(A) Refund checks not involving third-party resouce payments should be made payable to OMAP Receipting — Checks in Salem.

(B) Refunds involving third-party resouce payments should be made payable and submitted to OMAP Receipting — MPR Checks in Salem.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.010
Hist.: OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03

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Adm. Order No.: OMAP 20-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 1-1-03
Rules Amended: 410-121-0060, 410-121-0190, 410-121-0200
Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products provided to clients. Rules are revised as follows: 410-121-0060 - to state emergent or urgent procedure to obtain a limited amount of drug: 410-120-0190 - to correct the billing code and type of service for billing clozapine; Rule 410-121-0200 - to reference the OMAP Home Enteral/Parenteral Nutrition and IV services guide for billing instructions.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0060
How to Get Prior Authorization for Drugs

(1) The prescribing practitioner will request prior authorization through the following procedure:

(a) A prescriber electing to order a drug requiring prior authorization may have any licensed medical personnel in their office call the Managed Access Program (MAP) Help Desk to request prior authorization. The prior authorization request may also be transmitted to the MAP Help Desk by FAX using the request form shown in the Appendices of the Pharmaceutical Services guide;

(b) The MAP Help Desk is available 24 hours a day, seven days per week. The MAP pharmacist will ask for some or all of the following information, depending upon the class of the drug requested:

(A) Client name and recipient ID number;

(B) Diagnosis IDC-9-CM;

(C) Drug name, strength, size and quantity of medication;

(D) Medical justification for use of selected drug;

(E) Pharmacy name and phone number (if available).

(2) Pharmacists shall:

(a) When the request is approved, the MAP Help Desk will notify the pharmacy when the dispensing pharmacy information is available. It is the pharmacist's responsibility to check whether the drugs are covered, whether the client is eligible, and to note restrictions such as date ranges and quantities before dispensing any medications that require prior authorization. The pharmacy should also check whether the client is enrolled in a managed care plan. An enrollment may have taken place after prior authorization was received;

(b) Prior authorization is given for a specific date of service and an NDC number or product;

(c) After a prior authorization request is approved, the patient will be able to fill the prescription at any Medicaid pharmacy provider. There is no need for a prior authorization number;

(d) Emergency dispensing will be prior authorized for a seven-day supply for clients not enrolled in a managed care plan;

(e) If the prior authorization request has been denied, the MAP Help Desk will notify the pharmacy when the dispensing pharmacy information is available.

(3) Prior authorization does not guarantee eligibility or reimbursement.

(4) Emergency Need: The Pharmacist may request an emergent or urgent dispensing from the First Health Help Desk. Emergency dispensing may be authorized by First Health for a 96-hour supply.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0180; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 2-1995, f. & cert. ef. 2-1-95; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03

410-121-0190
Clozapine Therapy

(1) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications.Clozapine Supervision is the management and recordkeeping of clozapine dispensings as required by the manufacturer of clozapine.

(2) Clozapine supervision:

(a) Pharmacists are to bill for Clozapine Supervision by using code 90862 and type of service "S". CMS01 has been deleted. Do not bill CMS01 for Clozapine supervision.

(b) Providers billing for clozapine supervision must document all of the following:

(A) Exact date and results of White Blood Counts (WBCs), upon initiation of therapy and at recommended intervals per the drug labeling;

(B) Notations of current dosage and change in dosage;

(C) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;

(D) Dates provider sent required information to manufacturer.

(E) Only one provider, either pharmacist or physician, may bill per week per client;

(F) Limited to five units per 30 days per client;

(G) An ICD-9 diagnosis must be shown in Field 21 of the HCFA-1500. The diagnosis code must be shown to the 5th digit on the HCFA-1500 and OMAP 505.

(3) Drug Products — The information required on the OMAP 502 must be included in the billing. The actual drug product may be billed electronically or submitted on an OMAP 502/502N;

(4) Venipuncture — If the pharmacy performs venipuncture, bill for that procedure on a HCFA-1500 (and OMAP 505 if the client has Medicare coverage). Use Type of Service "S" and Procedure Code G0001.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 17-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 45-2002, f. & cert. ef. 10-1-02; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03

410-121-0200
Billing Forms

(1) Prescription Drug Invoice OMAP 502/502N:

(a) This form is used to bill for all pharmacy services, except durable medical equipment and home enteral/parenteral nutrition and IV services identified with a five-digit HCPCS or OMAP Unique codes in the Home Enteral/Parenteral Nutrition and IV Services Guide;

(b) The provider may bill on the form when a valid Medical Care Identification has been presented. In the absence of a valid Medical Care Identification, the provider should call the Automated Information System or contact the local branch office where the client is being served;

(c) The provider should follow the usual procedures to order supplies of OMAP 502 and OMAP 502N forms from AFS. All completed OMAP 502s/OMAP 502Ns should be mailed to: Office of Medical Assistance Programs, Salem, OR 97309;

(d) A paper claim must be used when the billed amount exceeds $9,999;

(e) The information in OAR 410-121-0220 is required data on all claims, whether billing through Point-of-Sale, electronically, or on a paper claim.

(2) HCFA-1500 for Durable Medical Equipment:

(a) All durable medical equipment and certain enteral/parenteral nutrition and IV services must be billed on the HCFA-1500, using the billing instructions found in the OMAP Durable Medical Equipment and Medical Supplies Guide, and the OMAP Home Enteral/Parenteral Nutrition and IV Services guide;

(b) All completed HCFA-1500 forms for durable medical equipment should be mailed to: Office of Medical Assistance Programs, Salem, OR 97309.

[ED NOTE: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 20-2003, f. 3-26-03, cert. ef. 4-1-03

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Adm. Order No.: OMAP 21-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 1-1-03
Rules Adopted: 410-122-0720
Rules Amended: 410-122-0180, 410-122-0190, 410-122-0200, 410-122-0202, 410-122-0203, 410-122-0205, 410-122-0207, 410-122-0208, 410-122-0209, 410-122-0210, 410-122-0240, 410-122-0300, 410-122-0320, 410-122-0340, 410-122-0360, 410-122-0365, 410-122-0375, 410-122-0420, 410-122-0470, 410-122-0500, 410-122-0510, 410-122-0525, 410-122-0540, 410-122-0560, 410-122-0580, 410-122-0600, 410-122-0620, 410-122-0625, 410-122-0630, 410-122-0660, 410-122-0678, 410-122-0680
Rules Repealed: 410-122-0370, 410-122-0460, 410-122-0665, 410-122-0670, 410-122-0675
Subject: The Durable Medical Equipment and Medical Supplies administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. A new rule is adopted to include pediatric wheelchairs. Rules (see attached) are revised to reflect the 2003 CPT and HCPCS code changes; change OMAP unique codes to match the new HCPCS codes; and to add, delete and change descriptions of current HCPCS codes to match CMS. Rules listed above are deleted to remove most orthotic and prosthetic codes from rule, instruct the use of Medicare criteria and limitations for those codes and the use of the current HCPCS guide for the descriptions.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0180
Procedure Codes

(1) The Office of Medical Assistance Programs (OMAP) guide, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) is intended to be used in conjunction with the HCPCS. When billing for durable medical equipment and supplies, use the procedure codes listed in the DMEPOS guide. When billing for orthotics and prosthetic equipment and supplies, use the American Orthotics and Prosthetic Association (AOPA) publication, prepared by the AOPA.

(2) Questions concerning the coding of items should be referred to the Medicare Statistical Analysis DMERC (SADMERC) Palmetto Government Benefits Administrators or the AOPA. Written verification of coding from SADMERC or AOPA will be accepted as true and correct, at OMAP's discretion.

(3) Any durable medical equipment needed during an inpatient hospital stay is paid as part of the inpatient reimbursement to the hospital and is therefore the responsibility of the hospital.

(4) For prior authorization (PA) contacts, see OAR 410-122-0040.

(5) Equipment purchased for the client through the Medical Assistance Program becomes the property of the client.

(6) Buy-ups are prohibited. "Buy-up" refers to a situation in which a client wants to upgrade to a higher level of service than he or she is eligible for; e.g., a heavy duty walker instead of a regular walker. Refer to the OMAP General Rules for specific language on buy-ups. Advanced Beneficiary Notices (ABN) constitute a buy-up and are prohibited.

(7) The following are indicators and definitions found throughout the DMEPOS guide:

(a) PA — Prior Authorization. If PA is shown on a procedure code, then PA is always required, even if the client has private insurance;

(b) PA/OMAP — Procedure codes showing "PA/OMAP" are to be prior authorized by OMAP, the Medically Fragile Children's Unit or CMS Health Integrated case managers;

(c) PC — Purchase. An "X" in this column indicates that purchase of this item is covered for payment by OMAP;

(d) RT — Rent. An "X" in this column indicates that the rental of this item is covered for payment by OMAP;

(e) 16R — Paid for after 16 months of rent. An "X" in this column indicates that the equipment is considered paid for after 16 consecutive months of rent by the same provider or when purchase price is reached:

(A) Rental price starting with the initial date of service, regardless of payor, applies to purchase price. When this happens the client owns the equipment;

(B) Any needed repairs or maintenance after the 16th month is the responsibility of OMAP, based on client eligibility;

(C) Consecutive months are defined as"any period of continuous use where no more than a 60-day break occurs unless the item is for a Medicare/Medical Assistance Program client and is in the Medicare Capped Rental Program, then continue to bill Medicare for maintenance, per Medicare's schedule;

(D) Before renting, purchase should be considered for long-term requirements.

(f) RP — Repair. An "X" in this column indicates that repair of this item is covered for payment by OMAP;

(g) NF — Nursing Facility. An "X" in this column indicates that this procedure code is covered for payment by OMAP when the client is a resident of a nursing facility. If this column is empty, the procedure code is not covered for payment by OMAP when the client is a resident of a nursing facility.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 6-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 7-1990, f. 3-30-89, cert. ef. 4-1-89; Renumbered from 461-024-0200; HR 13-1991, f. & cert. ef. 3-1-91; Renumbered from 410-122-0100; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 12-1999(Temp), f. & cert. ef. 4-1-99 thru 9-1-99; OMAP 26-1999, f. & cert. ef. 6-4-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 54-2001(Temp), f. 10-31-01, cert. ef. 11-1-01 thru 4-15-02; OMAP 63-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0190

Equipment and Services Not Otherwise Classified

(1) Documentation must support that the procedure code billed is accurate and is appropriate.

(2) Prior authorization (PA) is always required.

(3) Medical appropriateness and prescription requirements also apply.

(4) The level of reimbursement should not be considered as a factor in the use of these procedure codes.

(5) Each item requested must be itemized with description and amount.

(6) Procedure Codes:

(a) A4335, Incontinence supply; miscellaneous (not covered for clients under three years of age) — PA required — the Office of Medical Assistance Programs (OMAP) will purchase:

(A) Limited to 360 units per month, based on medical appropriateness of any combination of products (i.e., adult diapers and inserts). Limitation is waived if documentation supporting increased medically appropriate usage is reviewed and prior authorized by the OMAP Medical Unit;

(B) Includes but is not limited to pad-in-pant systems.

(b) A4421, Ostomy supply; miscellaneous — PA required by OMAP — OMAP will purchase;

(c) A4649, Surgical supply; miscellaneous, includes, but is not limited to antiseptic towelettes. Antiseptic towelettes are covered only for intermittent urinary catheterizations when other methods of cleansing are not available — PA required — OMAP will purchase:

(d) A6261, Wound filler, not elsewhere classified, gel/paste (1 unit of service = 1 fluid ounce) — PA required by OMAP — OMAP will purchase;

(e) A6262, Wound filler, not elsewhere classified, dry form (1 unit of service = 1 gram) — PA required by OMAP — OMAP will purchase;

(f) A9900, Miscellaneous DME supply, accessory, and/or service component of another HCPCS code — includes but is not limited to — PA required by OMAP — OMAP will purchase:

(A) Dale(tm) tracheostomy tube holder;

(B) Dale(tm) tracheostomy tube holder for neonates/infants.

(g) E1399, Durable medical equipment, miscellaneous — PA required — OMAP will purchase, rent, or repair — Item considered purchased after 16 months of rent — This code may be covered for payment from OMAP when client is a resident of a nursing facility, check when obtaining PA — For back-up equipment use modifier TW — includes but is not limited to:

(A) Use for walker gliders. Not covered for clients in a nursing facility;

(B) Use for heavy duty rigid frame tub transfer bench for clients over 250 pounds. Not covered for clients in a nursing facility;

(C) Use for oxymiser cannula. Not covered for clients in a nursing facility;

(D) Use for hydraulic bath tub lift. Not covered for clients in a nursing facility;

(E) Use for heavy duty or extra wide rehab shower/commode chair. Not covered for clients in a nursing facility;

(F) Use for routine maintenance for client-owned ventilator — PA required by OMAP:

(i) Proof of manufacturer's suggested maintenance schedule must be submitted when requesting PA;

(ii) Bill E1350 for labor charges.

(G) Not used for:

(i) Wheelchair base;

(ii) Repairs.

(H) Use for gait belt:

(i) Indications and coverage. Gait belts are covered when:

(I) Client is 60 pounds or greater; and

(II) The care provider is trained in the proper use; and

(III) The client meets one of the following criteria:

(III)(a) The client may be able to walk independently, but needs a minor correction of ambulation; or

(III))(b) The client needs minimal or standby assistance to walk alone; or

(III)(c) The client requires assistance with transfer.

(ii) Documentation:

(I) Documentation of medical appropriateness from the prescribing practitioner must be kept on file by the DME provider;

(II) Documentation must include documentation that the care provider is trained in proper use.

(h) L0999, Addition to spinal orthosis, not otherwise specified — PA required by OMAP — OMAP will purchase; Also covered for payment by OMAP when client is a resident of a nursing facility;

(i) L8239, Elastic support, not otherwise specified — PA required by OMAP — OMAP will purchase; Also covered for payment by OMAP when client is a resident of a nursing facility.

(7) Repairs:

(a) Repairs to equipment which a client is purchasing or already owns are covered when necessary to make the equipment serviceable. If the expense for repairs exceeds the estimated expense of purchasing or renting another item of equipment for the remaining period of medical need, no payment can be made for the amount of the excess;

(b) Technicians are DME provider staff professionally trained through product or vendor-based training, technical school training (e.g., electronics) or through apprenticeship programs with on-the-job training;

(c) A written description of the nature of the repair and an itemization of the parts and labor time involved must be kept in the DME supplier's file;

(d) Documentation of medical appropriateness is only required if:

(A) The equipment was not provided by the repairing provider; or

(B) The client's medical condition has changed; or

(C) The client has other equipment of similar use (e.g., power and manual wheelchair).

(e) If equipment is sent to the manufacturer for repair or non-routine service, the manufacturer must itemize the invoice as to parts, labor time

(documentation of start and stop time is not required), shipping and handling. Shipping and handling will not be reimbursed;

(f) E1340, Repair or non-routine service requiring the skill of a technician, labor component, per 15 minutes — OMAP will repair, Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned equipment;

(g) K0462, Temporary replacement for client-owned equipment being repaired, any type — PA by OMAP is required — OMAP will rent; Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned equipment:

(A) Use the price of the HCPCS code that corresponds to equipment being repaired;

(B) Use for client-owned equipment that is being repaired (e.g., wheelchair, hospital bed) or the replacement equipment (e.g., power chair being repaired and manual chair as replacement) whichever is least costly;

(C) Include the manufacturer, brand name, model name, and model number of the temporary replacement item;

(D) Limited to one month;

(E) Prescription not required.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1993, f. & cert. ef. 4-1-93; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0200

Pulse Oximeter

(1) Indications and Coverage — Covered if all of the following criteria are met:

(a) A prescribing practitioner order is required with appropriate medical oversight and direction;

(b) Individual has a condition requiring frequent oxygen concentration adjustments;

(c) Documentation of more than three desaturations below 88% per month;

(d) Requires more than two tracheal suctionings per hour;

(e) There is an individual available who is properly instructed, and able to perform the test, document the result, and implement the appropriate therapeutic intervention;

(f) Trained individual to perform identified intervention plan;

(g) Continued reimbursement is based on documentation of above criteria;

(h) Routine use of oximetry is not covered;

(i) The allowable rental fee for the pulse oximeter is to include all equipment, supplies, services, routine maintenance and training necessary for the effective use of the pulse oximeter.

(2) Procedure Codes:

(a) A4606, Oxygen probe for use with oximeter device, replacement — PA required by OMAP — OMAP will purchase.

(b) E0445,Oximeter device for measuring blood oxygen levels non-invasively, per month — Prior authorization required by the Office of Medical Assistance Programs (OMAP) — OMAP will rent and repair — Item considered purchased after 16 months of rent.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994,. f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 32-1999, f. & cert. ef. 10-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0202

Continuous Positive Airway Pressure System (CPAP)

(1) Indications and Coverage:

(a) Sleep Disordered Breathing — Obstructive apnea, central apnea, mixed apnea, and sleep hypopnea syndrome. Covered if the polysomnogram indicates:

(A) An Apnea Hypopnea Index (AHI) > 10 per hour of sleep; and

(B) Oxygen saturation related to an apneic or hypopneic event which is < 90%.

(b) Upper airway resistance syndrome (UARS). Covered when both the following criteria are met:

(A) An arousal index > 15; and

(B) Significant excessive daytime sleepiness as defined by any of the following:

(i) Epworth sleepiness scale > 10; or

(ii) History of moderate or severe sleepiness; or

(iii) Multiple Sleep Latency Test (MSLT) with a mean sleep latency < 8.

(C) Definition of moderate and severe sleepiness per "Sleep-Related Breathing Disorders in Adults: Recommendations for Syndrome Definition and Measurement Techniques in Clinical Research; The Report of an American Academy of Sleep Medicine Task Force" published in Sleep, Volume 22. Number 5, 1999:

(i) "Moderate: Unwanted sleepiness or involuntary sleep episodes occur during activities that require some attention. Examples include uncontrollable sleepiness that is likely to occur while attending activities such as concerts, meetings, or presentations. Symptoms produce moderate impairment of social or occupational function.";

(ii) "Severe: Unwanted sleepiness or involuntary sleep episodes occur during activities that require more active attention. Examples include uncontrollable sleepiness while eating, during conversation, walking, or driving. Symptoms produce marked impairment in social or occupational function.".

(2) Documentation:

(a) To be submitted with request for prior authorization (PA) and kept on file by the DME provider:

(A) Copy of complete polysomnogram report performed in a certified sleep laboratory;

(B) Medical justification from the prescribing practitioner;

(C) Oxygen saturation reports, if required;

(D) Prescribing practitioner history and physical examination.

(b) To be submitted with the request for PA for purchase after the two-month rental period is completed;

(c) Proof of efficacy and compliance from the prescribing practitioner.

(3) Other:

(a) A two-month rental period is required for CPAP prior to purchase. Rental price starting with the initial date of service, regardless of payor, applies to purchase price;

(b) Clients currently using CPAP can continue to use without having to meet the new criteria.

(4) Procedure Codes:

(a) E0601, Continuous Airway Pressure Device (CPAP) — PA required by OMAP — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility — Item considered purchased after 16 months of rent;

(b) Accessories for CPAP:

(A) A7030, Full face mask used with positive airway pressure device, each — PA required by OMAP — OMAP will purchase. Also covered for payment by OMAP when client is a resident of a nursing facility;

(B) A7031, Face mask interface, replacement for full face mask, each — PA required by OMAP — OMAP will purchase. Also covered for payment by OMAP when client is a resident of a nursing facility;

(C) A7032, Replacement cushion for nasal application device, each, two per month — PA required by OMAP — OMAP will purchase, Also covered for payment by OMAP when client is a resident of a nursing facility;

(D) A7033, Replacement pillows for nasal application device, pair, two per month — PA required by OMAP — OMAP will purchase. Also covered for payment by OMAP when client is a resident of a nursing facility;

(E) A7034, Nasal interface (mask or cannula type) used with positive airway pressure device, with or without head straps, one per three months, not separately covered with K0533 — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(F) A7035,Headgear, used with positive airway pressure device — one per six months, not separately covered with K0533 — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(G) A7036, Chin strap, used with positive airway pressure device — one per six months, not separately covered with K0533 — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(H) A7037, Tubing, used with positive airway pressure device — one per one month, not separately covered with K0533 — PA required by

OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(I) A7038, Filter, disposable, used with positive airway pressure device — two per one month, not separately covered with K0533 — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(J) A7039, Filter, non-disposable, used with positive airway pressure device — one per six months, not separately covered with K0533 — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(K) A7044, Oral interface used with positive airway pressure device, each — PA required by OMAP — OMAP will purchase. Also covered for payment by OMAP when client is a resident of a nursing facility;

(L) K0268, Humidifier, non-heated, used with positive airway pressure device — PA required by OMAP — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility;

(M) K0531, Humidifier, heated, used with positive airway pressure device — PA required by OMAP — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility;

(N) S8186, Swivel adapter — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0203
Oxygen and Oxygen Equipment

(1) Children (under age 21):

(a) Indications and Coverage: Prescribing practitioner must determine medical appropriateness;

(b) Documentation: DME providers must retain documentation of medical appropriateness from prescribing practitioner.

(2) Adults: Indications and Coverage:

(a) Home oxygen therapy is covered only if all of the following conditions are met:

(A) The treating prescribing practitioner has determined that the client has a severe lung disease or hypoxia-related symptoms that might be expected to improve with oxygen therapy; and

(B) The client's blood gas study meets the criteria stated below; and

(C) The qualifying blood gas study was performed by a prescribing practitioner or by a qualified provider or supplier of laboratory services; and

(D) The qualifying blood gas study was obtained under the following conditions:

(i) If the qualifying blood gas study is performed during an inpatient hospital stay, the reported test must be the one obtained closest to, but no earlier than two days prior to the hospital discharge date; or

(ii) If the qualifying blood gas study is not performed during an inpatient hospital stay, the reported test must be performed while the client is in a chronic stable state — i.e., not during a period of acute illness or an exacerbation of their underlying disease, and.

(E) Alternative treatment measures have been tried or considered and deemed clinically ineffective.

(b) Coverage of oxygen therapy is not available for the following conditions:

(A) Angina pectoris in the absence of hypoxemia. This condition is generally not the result of a low oxygen level in the blood and there are other preferred treatments;

(B) Dyspnea without cor pulmonale or evidence of hypoxemia;

(C) Severe peripheral vascular disease resulting in clinically evident desaturation in one or more extremities but in the absence of systemic hypoxemia. There is no evidence that increased PO2 will improve the oxygenation of tissues with impaired circulation;

(D) Terminal illnesses that do not affect the respiratory system;

(E) Stationary oxygen as a backup for a concentrator is the responsibility of the oxygen provider.

(3) Group I:

(a) Coverage criteria includes any of the following:

(A) An arterial PO2 at or below 55 mm Hg or an arterial oxygen saturation at or below 88 percent taken at rest (awake); or

(B) An arterial PO2 at or below 55 mm Hg, or an arterial oxygen saturation at or below 88 percent, taken during sleep for a client who demonstrates an arterial PO2 at or above 56 mm Hg or an arterial oxygen saturation at or above 89% while awake; or

(C) A decrease in arterial PO2 more than 10 mm Hg, or a decrease in arterial oxygen saturation more than 5 percent taken during sleep associated with symptoms or signs reasonably attributable to hypoxemia (e.g., cor pulmonale, "P" pulmonale on EKG, documented pulmonary hypertension and erythrocytosis); or

(D) An arterial PO2 at or below 55 mm Hg or an arterial oxygen saturation at or below 88 percent, taken during exercise for a client who demonstrates an arterial PO2 at or above 56 mm Hg or an arterial oxygen saturation at or above 89 percent during the day while at rest. In this case, oxygen is provided for during exercise if it is documented that the use of oxygen improves the hypoxemia that was demonstrated during exercise when the client was breathing room air.

(b) Initial coverage for clients meeting Group 1 criteria is limited to 12 months or the prescribing practitioner-specified length of need, whichever is shorter.

(4) Group II:

(a) Coverage — criteria include the presence of:

(A) An arterial PO2 of 56-59 mm Hg or an arterial blood oxygen saturation of 89 percent at rest (awake), during sleep, or during exercise (as described under Group 1 criteria); and

(B) Any of the following:

(i) Dependent edema suggesting congestive heart failure; or

(ii) Pulmonary hypertension or cor pulmonale, determined by measurement of pulmonary artery pressure, gated blood pool scan, echocardiogram, or "P" pulmonale on EKG (P wave greater than 3 mm in standard leads II, III, or AVF); or

(iii) Erythrocythemia with a hematocrit greater than 56 percent.

(b) Initial coverage for clients meeting Group II criteria is limited to three months or the prescribing practitioner specified length of need, whichever is shorter.

(5) Group III — Home use of oxygen is presumed not medically appropriate for clients with arterial PO2 levels at or above 60 mm Hg, or arterial blood oxygen saturation at or above 90%.

(6) Portable Oxygen Systems: A portable oxygen system is covered if the client is mobile within the home and the qualifying blood gas study was performed while at rest (awake) or during exercise. If the only qualifying blood gas study was performed during sleep, portable oxygen is not covered. If coverage criteria are met, a portable oxygen system is usually separately payable in addition to the stationary system.

(7) Standby Oxygen: Oxygen PRN or oxygen as needed is not covered.

(8) Topical Oxygen: Oxygen for topical use is not covered.

(9) Blood Gas Study:

(a) The qualifying blood gas study must be performed by a CLIA certified laboratory. A supplier is not considered a qualified provider or a qualified laboratory for purposes of this policy. In addition, the qualifying blood gas study may not be paid for by any supplier. This prohibition does not extend to blood gas studies performed by a hospital certified to do such tests;

(b) The qualifying blood gas study may be performed while the client is on oxygen as long as the reported blood gas values meet the Group I or Group II criteria;

(c) For Initial Certifications, the blood gas study reported on the Certificate of Medical Necessity (CMN) or reasonable facsimile, must be the most recent study obtained prior to the Initial Date indicated in Section A of the CMN and this study must be obtained within 30 days prior to that Initial Date;

(d) For clients initially meeting Group I criteria, the most recent blood gas study prior to the thirteenth month of therapy must be reported on the Recertification CMN. For clients initially meeting Group I criteria, if the estimated length of need on the Initial CMN is less than lifetime and the prescribing practitioner wants to extend coverage, a repeat blood gas study must be performed within 30 days prior to the date of the Revised Certification;

(e) For clients initially meeting Group II criteria, the most recent blood gas study which was performed between the 61st and 90th day following Initial Certification must be reported on the Recertification CMN. If a qualifying test is not obtained between the 61st and 90th day of home oxygen therapy, but the client continues to use oxygen and a test is obtained at a later date, if that test meets Group I or II criteria, coverage would resume beginning with the date of that test. For clients initially meeting Group II criteria, if the estimated length of need on the Initial CMN is less than lifetime and the prescribing practitioner wants to extend coverage, a

repeat blood gas study must be performed within 30 days prior to the date of the Revised Certification;

(f) For any Revised CMN, the blood gas study reported on the CMN must be the most recent test performed prior to the Revised date;

(g) When both arterial blood gas (ABG) and oximetry tests have been performed on the same day under the same conditions (i.e., at rest/awake, during exercise, or during sleep), only report the ABG PO2 on the CMN. If the ABG PO2 result is not a qualifying value, home oxygen therapy is not covered regardless of the oximetry test result.

(10) Oxygen Saturation (Oximetry) Tests — Must not be performed by the DME supplier or anyone financially associated with or related to the DME supplier.

(11) Documentation:

(a) The Certificate of Medical Necessity (CMN) for home oxygen is CMS form 484. This form is used for initial certification, recertification, and changes in the oxygen prescription. This form or other documentation of medical appropriateness must be reviewed and signed by the treating prescribing practitioner and kept on file by the DME provider;

(b) Initial CMN is required:

(A) Before the first date of service;

(B) When there has been a change in the client's condition that has caused a break in medical appropriateness of at least 60 days plus whatever days remain in the rental month during which the need for oxygen ended. This indication does not apply if there was just a break in billing because the client was in a hospital, nursing facility, or hospice, but the client continued to need oxygen during that time;

(C) When the client initially qualified in Group II, repeat blood gas studies were not performed between the 61st and 90th day of coverage, but a qualifying study was subsequently performed. The Initial Date on this new CMN may not be any earlier than the date of the subsequent qualifying blood gas study;

(D) The blood gas study reported on the initial CMN must be the most recent study obtained prior to the Initial Date and this study must be obtained within 30 days prior to that Initial Date.

(c) Recertification CMN is required:

(A) Three months after Initial Certification — if oxygen test results on the Initial Certification are in Group II. The blood gas study reported must be the most recent study which was performed between the 61st and 90th day following the Initial Date;

(B) 12 months after Initial Certification — if oxygen test results on the Initial Certification are in Group I. The blood gas study reported must be the most recent blood gas study prior to the thirteenth month of therapy. This CMN also establishes lifetime.

(d) Revised CMN is Required:

(A) When a portable oxygen system is added subsequent to Initial Certification of a stationary system. In this situation, there is no requirement for a repeat blood gas study unless the initial qualifying study was performed during sleep, in which case a repeat blood gas study must be performed while the client is at rest (awake) or during exercise within 30 days prior to the Revised Date;

(B) When the length of need expires — if the prescribing practitioner specified less than lifetime length of need on the most recent CMN. In this situation, a revised blood gas study must be performed within 30 days prior to the Revised Date;

(C) When there is a new treating prescribing practitioner but the oxygen order is the same. In this situation, there is no requirement for a repeat blood gas study;

(D) If there is a new supplier, that supplier must obtain a new CMN. It would be considered a Revised CMN;

(E) Submission of a Revised CMN does not change the Recertification schedule specified above;

(F) If the indications for a Revised CMN are met at the same time that a Recertification CMN is due, file the CMN as a Recertification CMN.

(e) New Order Required: In the following situations, a new order must be obtained and kept on file by the supplier, but neither a new CMN nor a repeat blood gas study are required:

(A) Prescribed maximum flow rate changes but remains within one of the following categories:

(i) Less than 1 LPM (Liters Per Minute);

(ii) 1-4 LPM;

(iii) Greater than 4 LPM.

(B) Change from one type of system to another (i.e., concentrator, liquid, gaseous).

(12) Oxygen users before March 1, 1991, will continue to receive services and are not subject to the above criteria.

(13) Concentrators: E1390, Oxygen concentrator, capable of delivering 85% or greater oxygen concentration at the prescribed flow rate, per month — the Office of Medical Assistance Programs (OMAP) will rent — Covered for payment by OMAP if nursing facility resident uses more than 1,000 liters per day. All equipment and supplies needed for the operation of the concentrator are included in the rental fee.

(14) Oxygen enriching systems:

(a) E1405, Oxygen and water vapor enriching system with heated delivery — OMAP will rent — Also covered for payment by OMAP when client is a resident of a nursing facility;

(b) E1406, Oxygen and water vapor enriching system without heated delivery — OMAP will rent — Also covered for payment by OMAP when client is a resident of a nursing facility.

(15) Compressed gas:

(a) E0424, Stationary compressed gaseous oxygen system, rental, per month; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing — OMAP will rent;

(b) E0425, Stationary compressed gaseous system purchase; includes regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing — OMAP will purchase — OMAP will repair;

(c) E0430, Portable gaseous oxygen system, purchase; includes regulator, flowmeter, humidifier, cannula or mask, and tubing — OMAP will purchase — OMAP will repair;

(d) E0431, Portable gaseous oxygen system, rental; includes portable container, regulator, flowmeter, humidifier, cannula or mask, and tubing, per month — OMAP will rent;

(e) E0441, Oxygen contents, gaseous, (for use with owned gaseous stationary systems or when both a stationary and portable gaseous system are owned), one month supply = 1 unit — OMAP will purchase;

(f) E0443, Portable oxygen contents, gaseous, (for use only with portable gaseous systems when no stationary gas or liquid system is used), one month supply = 1 unit — OMAP will purchase.

(16) Liquid oxygen:

(a) E0434, Portable liquid oxygen system, rental; includes portable container, supply reservoir, humidifier, flowmeter, refill adaptor, contents gauge, cannula or mask, and tubing — OMAP will purchase — OMAP will repair;

(b) E0435, Portable liquid oxygen system, purchase; includes portable container, supply reservoir, flowmeter, humidifier, contents gauge, cannula or mask, tubing and refill adaptor — OMAP will purchase — OMAP will repair;

(c) E0439, Stationary liquid oxygen system, rental; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing, per month — OMAP will rent;

(d) E0440, Stationary liquid system, purchase; includes use of reservoir, contents indicator, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing — OMAP will purchase — OMAP will repair;

(e) E0442, Oxygen contents, liquid, (for use with owned liquid stationary system or when both a stationary and portable liquid system are owned), one month supply = 1 unit — OMAP will purchase;

(f) E0444, Portable oxygen contents, liquid, (for use only with portable liquid systems when no stationary gas or liquid system is used), one month supply = 1 unit — OMAP will purchase.

(17) Oxygen supplies:

(a) E0455, Oxygen tent, excluding croup or pediatric tents, per month — OMAP will rent;

(b) E0550, Humidifier, durable for extensive supplemental humidification during IPPB treatments or oxygen delivery — Not to be billed in addition to DMA11, E0424, E0431, E0434, E0439, E0450, E0455, E0460, E1400, E1401, E1402, E1403, E1404, E1405, or E1406 — OMAP will purchase — OMAP will rent and repair; Item considered purchased after 16 months of rent;

(c) E0555, Humidifier, durable, glass or autoclavable plastic, bottle type, for use with regulator or flowmeter — Not to be billed in addition to DMA11, E0424, E0431, E0434, E0439, E0450, E0455, E0460, E1400, E1401, E1402, E1403, E1404, E1405, or E1406 — OMAP will purchase;

(d) E0560, Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery — Not to be billed in addition to DMA11, E0424, E0431, E0434, E0439, E0450, E0455, E0460, E1400, E1401, E1402, E1403, E1404, E1405, or E1406 — OMAP will purchase — OMAP will rent and repair — Item considered purchased after 16 months of rent;

(e) E0605, Vaporizer, room type — OMAP will purchase;

(f) E1353, Regulator (yoke or other) — OMAP will purchase — OMAP will repair;

(g) E1355, Stand/rack for oxygen tank — OMAP will purchase.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0205
Respiratory Assist Devices

(1) As referenced in this policy, non-invasive positive pressure respiratory assistance (NPPRA) is the administration of positive air pressure, using a nasal and/or oral mask interface which creates a seal, avoiding the use of more invasive airway access (e.g., tracheostomy).

(2) Indications and Coverage — General:

(a) The "treating prescribing practitioner" must be one who is qualified by virtue of experience and training in non-invasive respiratory assistance, to order and monitor the use of respiratory assist devices (RAD);

(b) For the purpose of this policy, polysomnographic studies must be performed in a sleep study laboratory, and not in the home or in a mobile facility. It must comply with all applicable state regulatory requirements;

(c) For the purpose of this policy, arterial blood gas, sleep oximetry and polysomnographic studies may not be performed by a DME supplier. A DME supplier is not considered a qualified provider or supplier of these tests for purposes of this policy's coverage and payment guidelines. This prohibition does not extend to the results of studies conducted by hospitals certified to do such tests;

(d) If there is discontinuation of usage of a K0532 or K0533 device at any time, the supplier is expected to ascertain this, and stop billing for the equipment and related accessories and supplies.

(3) Initial coverage criteria for K0532 and K0533 devices (first three months):

(a) For a RAD to be covered, the treating prescribing practitioner must fully document in the client's medical record symptoms characteristic of sleep-associated hypoventilation, such as:

(A) Daytime hypersomnolence;

(B) Excessive fatigue;

(C) Morning headache;

(D) Cognitive dysfunction;

(E) Dyspnea, etc.

(b) A RAD (K0532, K0533) used to administer NPPRA therapy is covered for those clients with clinical disorder groups characterized as:

(A) Restrictive thoracic disorders (i.e., progressive neuromuscular diseases or severe thoracic cage abnormalities); or

(B) Severe chronic obstructive pulmonary disease (COPD); or

(C) Central sleep apnea (CSA); or

(D) Obstructive sleep apnea (OSA) (K0532 only); and

(E) Who also meet the following criteria:

(i) Restrictive Thoracic Disorders:

(I) There is documentation in the client's medical record of a progressive neuromuscular disease (for example, amyotrophic lateral sclerosis) or a severe thoracic cage abnormality (for example, post-thoracoplasty for TB); and

(II) An arterial blood gas PaCO2, done while awake and breathing the client's usual FIO2, is >= 45 mm Hg; or

(III) Sleep oximetry demonstrates oxygen saturation ? 88% for at least five continuous minutes, done while breathing the client's usual FIO2;

(IV) For progressive neuromuscular disease (only), maximal inspiratory pressures less than 60 cm/H2O or forced vital capacity is less than 50% predicted; and

(V) Chronic obstructive pulmonary disease does not contribute significantly to the client's pulmonary limitation;

(VI) If all above criteria are met, either a K0532 or K0533 device (based upon the judgment of the treating prescribing practitioner) will be covered for clients within this group of conditions for the first three months of NPPRA therapy (see below for continued coverage after the initial three months). If all of the above criteria are not met, then K0532 or K0533 and related accessories will be denied as not medically appropriate.

(ii) Severe COPD:

(I) An arterial blood gas PaCO2, done while awake and breathing the client's usual FIO2, is >= 52 mm Hg; and

(II) Sleep oximetry demonstrates oxygen saturation ? 88% for at least five continuous minutes, done while breathing oxygen at 2 LPM or the client's usual FIO2 (whichever is higher); and

(III) Prior to initiating therapy, OSA (and treatment with CPAP) has been considered and ruled out;

(IV) If all of the above criteria for clients with COPD are met, a K0532 device will be covered for the first three months of NPPRA therapy (see below for continued coverage after the initial three months). A K0533 device will not be covered for a client with COPD during the first two months, because therapy with a K0532 device with proper adjustments of the device's settings and client accommodation to its use will usually result in sufficient improvement without the need of a back-up rate. See below for coverage of a K0533 device for COPD after two month's use of a K0532 device;

(V) If the above criteria are not met, then K0532 and K0533 are not covered.

(iii) Central Sleep Apnea, i.e., apnea not due to airway obstruction:

(I) Prior to initiating therapy, a complete facility-based, attended polysomnogram must be performed documenting the following:

(I)(a) The diagnosis of central sleep apnea (CSA); and

(I)(b) The exclusion of obstructive sleep apnea (OSA) as the predominant cause of sleep-associated hypoventilation; and

(I)(c) The ruling out of CPAP as effective therapy if OSA is a component of the sleep-associated hypoventilation; and

(I)(d) Oxygen saturation ? 88% for at least five continuous minutes, done while breathing the client's usual FIO2; and

(I)(f) Significant improvement of the sleep-associated hypoventilation with the use of a K0532 or K0533 device on the settings that will be prescribed for initial use at home, while breathing the client's usual FIO2;

(II) If all above criteria are met, either a K0532 or K0533 device (based upon the judgment of the treating prescribing practitioner) will be covered for clients with documented CSA conditions for the first three months of NPPRA therapy (see below for continued coverage after the initial three months);

(III) If all of the above criteria are not met, then K0532 or K0533 and related accessories are not covered.

(iv) Obstructive Sleep Apnea (OSA):

(I) A complete facility-based, attended polysomnogram, has established the diagnosis of obstructive sleep apnea; and

(II) A single level device (E0601, Continuous Positive Airway Pressure Device (CPAP)) has been tried and proven ineffective;

(III) If the above criteria are met, a K0532 device will be covered for the first three months of NPPRA therapy. See below for continued coverage after the initial three months;

(IV) A K0533 device is not medically appropriate if the primary diagnosis is OSA.

(c) Continued coverage beyond the first three months of therapy:

(A) Clients covered for the first 3 months of a K0532 or K0533 device must be re-evaluated to establish the medical appropriateness of continued coverage by the Office of Medical Assistance Programs (OMAP) beyond the first three months. While the client may certainly need to be evaluated at earlier intervals after this therapy is initiated, the re-evaluation upon which OMAP will base a decision to continue coverage beyond this time must occur within 61 to 90 days of initiating therapy by the treating prescribing practitioner. There must be documentation in the client's medical record about the progress of relevant symptoms and client usage of the device up to that time. Failure of the client to be consistently using the K0532 or K0533 device for an average of four hours per 24-hour period by the time of this 61-90 day re-evaluation would represent non-compliant utilization for the intended purposes and expectations of benefit of this therapy. This would constitute reason for OMAP to deny continued coverage as not medically appropriate;

(B) Aside from the above documentation in the client's medical records, the following items of documentation must be obtained by the supplier of the device for continuation of coverage beyond three months:

(i) A signed and dated statement completed by the treating prescribing practitioner no sooner than 61 days after initiating use of the device, declaring that the client is compliantly using the device (an average of 4 hours per 24 hour period) and that the client is benefitting from its use; and

(ii) An Evaluation of Respiratory Assist Device (OMAP 2461) completed by the client no sooner than 61 days after initiating use of the device (see below). A copy of this form is in the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) provider guide for you to copy and use. A copy is also available at OMAP's website but OMAP does not furnish paper copies.

(C) If the above criteria are not met, continued coverage of a K0532 or K0533 device and related accessories will be denied as not medically appropriate;

(D) For Group II clients (COPD) who qualified for a K0532 device, if at a time no sooner than 61 days after initial issue and compliant use of a K0532 device, the treating prescribing practitioner believes the client

requires a K0533 device, the K0533 device will be covered if the following criteria are met:

(i) An arterial blood gas PaCO2, repeated no sooner than 61 days after initiation of compliant use of the K0532, done while awake and breathing the client's usual FIO2, still remains >= 52 mm Hg; and

(ii) A sleep oximetry, repeated no sooner than 61 days after initiation of compliant use of a K0532 device, and while breathing with the K0532 device, demonstrates oxygen saturation ? 88% for at least five continuous minutes, done while breathing oxygen at 2 LPM or the client's usual FIO2 (whichever is higher); and

(iii) A signed and dated statement from the treating prescribing practitioner, completed no sooner than 61 days after initiation of the K0532 device, declaring that the client has been compliantly using the K0532 device (an average of four hours per 24 hour period) but that the client is NOT benefitting from its use; and

(iv) An Evaluation of Respiratory Assist Device (OMAP 2461) completed by the client, no sooner than 61 days after initiation of the K0532 device.

(d) Coding Guidelines:

(A) For devices previously coded as E0452 or E0453, after the effective date of this policy, code E0452 as K0532, and if the E0453 is being used with a noninvasive interface to administer NPPRA therapy, code as K0533;

(B) For devices previously billed as K0194 (intermittent assist device with CPAP device, with humidifier), use codes K0532 and K0268 to continue billing after the effective date of this policy.

(e) Documentation:

(A) To be submitted with request for prior authorization (PA) and the original kept on file by the supplier:

(i) An order for all equipment and accessories including the client's diagnosis, an ICD-9-CM code signed and dated by the treating prescribing practitioner;

(ii) Polysomnographic studies, if required under indications and coverage;

(iii) Arterial blood gas results, if required under indications and coverage;

(iv) Sleep oximetry results, if required under indications and coverage;

(v) Treating prescribing practitioner statement regarding medical symptoms characteristic of sleep-associated hypoventilation, including, but not limited to daytime hypersomnolence, excessive fatigue, morning headache, cognitive dysfunction, and dyspnea;

(vi) Other treatments that have been tried and failed. To be submitted in addition to the above at the fourth month review.

(B) A copy of the Evaluation of Respiratory Assist Device (OMAP 2461) completed and signed by the client, family member or care giver;

(C) Clients currently using BiPapS and BiPap ST are not subject to the new criteria;

(D) Procedure Codes — Table 0205. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables & Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0207
Respiratory Supplies

(1) A4608, Transtracheal oxygen catheter, each — the Office of Medical Assistance Programs (OMAP) will purchase.

(2) A4614, Peak Expiratory Flow Meter, hand-held — OMAP will purchase.

(3) A4615, Cannula, nasal — OMAP will purchase.

(4) A4616, Tubing (oxygen), per foot — OMAP will purchase.

(5) A4617, Mouthpiece — OMAP will purchase.

(6) A4620, Variable concentration mask — OMAP will purchase.

(7) A4627, Spacer, bag or reservoir, with/without mask, for use with metered dose inhaler — OMAP will purchase.

(8) A4712 Water, sterile, for injection, per 10 ml — OMAP will purchase.

(9) E0480, Percussor, electric or pneumatic, home model — Covered for mobilizing respiratory tract secretions when the client or the operator of the powered percussor has received appropriate training by a prescribing practitioner or therapist and no one competent to administer manual therapy is available — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent.

(10) E0606, Postural drainage board — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent.

(11) J7051, Sterile saline or water, up to 5 ml each — OMAP will purchase.

(12) S8185, Flutter device — OMAP will purchase.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0208
Suction Pumps

(1) Indications and Coverage:

(a) Use of a home model suction machine is covered for clients who have difficulty raising and clearing secretions secondary to:

(A) Cancer or surgery of the throat; or

(B) Dysfunction of the swallowing muscles; or

(C) Unconsciousness or obtunded state; or

(D) Tracheostomy; or

(E) Neuromuscular conditions.

(b) Suction catheters are disposable supplies and are covered with a medically appropriate rented, purchased or owned suction pump. Sterile catheters are only covered for tracheostomy suctioning. Oropharyngeal and upper tracheal areas are not sterile and catheters can be reused if properly cleansed and/or disinfected;

(c) The suction device must be appropriate for home use without technical or professional supervision. Those using the suction apparatus must be sufficiently trained to adequately, appropriately and safely use the device;

(d) When a suction pump is used for tracheal suctioning, other supplies (e.g., cups, basins, gloves, solutions, etc.) are included in the tracheal care kit code, A4625 — see that policy for details. When a suction pump is used for oropharyngeal suctioning, these other supplies are not medically appropriate;

(e) Suction device will be purchased for individual use by a person in a nursing facility when the person is permanently on one of the following:

(A) A volume ventilator;

(B) Chest shell;

(C) Chest wrap;

(D) Negative pressure ventilator.

(f) Use E1399 for suction pump used with a nasogastric tube.

(2) Documentation: Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider.

(3) Procedure Codes:

(a) A4323, Sterile saline irrigation solution, 1,000 ml — covered when used to clear a suction catheter after tracheostomy suctioning, not covered for clearing an orophnaryingal suction catheter — OMAP will purchase;

(b) A4609, Tracheal suction catheter, closed system, for less than 72 hours of use, each — OMAP will purchase;

(c) A4610, Tracheal suction catheter, closed suction, for 72 or more hours of use, each — OMAP will purchase;

(d) A4624, Tracheal suction catheter, any type, other than closed system, each — the Office of Medical Assistance Programs (OMAP) will purchase;

(e) A4628, Oropharyngeal suction catheter, each — OMAP will purchase;

(f) A7000, Canister, disposable, used with suction pump, each — OMAP will purchase;

(g) A7001, Canister, non-disposable, used with suction pump, each — OMAP will purchase;

(h) A7002, Tubing, used with suction pump, each — OMAP will purchase;

(i) E0600, Respiratory suction pump, home model, portable or stationary, electric — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility when the client is permanently on one of the following: a volume ventilator, chest shell, chest wrap or negative pressure ventilator — Item considered purchased after 16 months of rent;

(j) E2000, Gastric suction pump, home model, portable or stationary, electric — OMAP will purchase.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0209
Tracheostomy Care Supplies

(1) Indications and Coverage: For a client following an open surgical tracheostomy which has been open or is expected to remain open for at least three months.

(2) Documentation: A prescription for tracheal equipment which is signed by the prescribing practitioner must be kept on file by the DME supplier. The prescribing practitioner's records must contain information which supports the medical appropriateness of the item ordered.

(3) Procedure Codes:

(a) A4481, Tracheostomy filter, any type, any size, each — the Office of Medical Assistance Programs (OMAP) will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(b) A4483, Moisture exchanger, disposable — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(c) A4621, Tracheostomy mask or collar — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(d) A4622, Tracheostomy or laryngectomy tube — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(e) A4623, Tracheostomy, inner cannula (replacement only) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(f) A4625, Tracheostomy care kit for new tracheostomy contains one plastic tray, one basin, one pair of sterile gloves, tube brush, three pipe cleaners, one pre-cut tracheostomy dressing, one roll of gauze, four 4x4 sponges, two cotton tip applicators, 30" twill tape — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility. One tracheostomy care kit per day is covered for two weeks following an open surgical tracheostomy;

(g) A4626, Tracheostomy cleaning brush, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(h) A4629 Tracheostomy care kit for established tracheostomy contains one tube brush, two pipe cleaners, two cotton tip applicators, 30" twill tape, two 4x4 sponges; OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility. One tracheostomy care kit per day is considered necessary for routine care of a tracheostomy, starting with post-operative day 15;

(i) A7501, Tracheostoma valve, including diaphragm, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(j) A7502, Replacement diaphragm/faceplate for tracheostoma valve, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(k) A7503, Filter holder or filter cap, reusable, for use in a tracheostoma heat and moisture exchange system, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(l) A7504, Filter for use in a tracheostoma heat and moisture exchange system, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(m) A7505, Housing, reusable without adhesive, for use in a heat and moisture exchange system and/or with a tracheostoma valve, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(n) A7506, Adhesive disc for use in a heat and moisture exchange system and/or with tracheostoma valve, any type, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(o) A7507, Filter holder and integrated filter without adhesive, for use in a tracheostoma heat and moisture exchange system, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(p) A7508, Housing and integrated adhesive, for use in a tracheostoma heat and moisture exchange system and/or with a tracheostoma valve, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(q) A7509, Filter holder and integrated filter housing, and adhesive, for use as a tracheostoma heat and moisture exchange system, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(r) S8189, Tracheostomy supply, not otherwise classified — Prior authorization required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0210
Ventilators

(1) The hospital discharge planner, case manager, or prescribing practitioner should call the DME provider directly. The DME provider will fax or mail the request for prior authorization (PA).

(2) The DME provider is responsible for providing written medical justification within the first 30 days to continue authorization for further services.

(3) If written justification is not received, there will be no further authorization.

(4) The following criteria will be used to determine payment:

(a) Documentation of being unable to wean from ventilator or unable to wean from use at night; or

(b) Documentation that alternate means of ventilation were used without success; or

(c) Client ready for discharge is currently on a ventilator and has been on the ventilator more than ten days.

(5) A back-up battery, generator, and resuscitation bag will be provided, if necessary.

(6) The allowable rental fee for the ventilator is to include all equipment, supplies, services and training necessary for the effective use of the ventilator.

(7) Routine maintenance is included in the rental fee.

(8) All respiratory therapy services needed are included in the rental fee.

(9) The ventilator provider must supply 24-hour emergency coverage.

(10) An emergency telephone number must be available 24-hours day from the ventilator provider.

(11) The client must have a telephone or reasonable access to one. The Office of Medical Assistance Programs (OMAP) will not be responsible for providing a telephone for the client.

(12) The following criteria will be used to determine payment for a back-up ventilator:

(a) The client is more than 60 minutes from the nearest hospital or back-up ventilator and has no documented spontaneous respirations; or

(b) Documentation supports medical appropriateness; or

(c) The client needs to be transported frequently with portable ventilator, and their ventilator is not a portable model; or

(d) The ventilator is used at maximum performance with high pressure and rate.

(13) Back-up ventilator:

(a) A back-up ventilator will be reimbursed at half the allowable rate.

(b) For back-up ventilator, use modifier TW — back-up equipment.

(c) Back-up ventilator users before April 1, 1992, will continue to receive services and are not subject to the above criteria.

(14) Procedure Codes — Table 0210. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0240
APNEA Monitor

(1) All necessary training to utilize services, including CPR training, is included in the rental fee.

(2) Indications and coverage:

(a) The following conditions will be considered for initial approval for a maximum of six months:

(A) A sibling has died from SIDS;

(B) Symptomatic apnea due to neurological impairment;

(C) Craniofacial malformation likely to cause symptomatic apnea.

(b) The following conditions will be considered for initial approval for a maximum of three months:

(A) Symptomatic apnea of prematurity;

(B) Observation of apparent life-threatening event (ALTE);

(C) Receiving home oxygen (not a universal requirement, full-term infant usually does not require).

(c) The authorization may be extended if documentation is submitted to support one of the following conditions:

(A) Continues to have real alarms documented by memory monitor;

(B) Upper respiratory infection when monitoring was scheduled to be discontinued (will be extended for two weeks, no memory monitor required).

(3) Documentation: The following documentation must be submitted for initial authorization of an apnea monitor:

(a) Diagnosis and statement of medical appropriateness from the prescribing practitioner; and

(b) Copies of hospital records documenting medical appropriateness; and/or

(c) Copies of sleep studies or apnea monitor with recording feature reports; and/or

(d) Documentation of ALTE from log, nursing notes or doctor's progress records.

(4) Multi-Channel Sleep Study:

(a) Indications and coverage:

(A) Sleep study must be medically appropriate;

(B) A sleep study is not required to discontinue use of an apnea monitor.

(b) Documentation: The following documentation must be submitted for initial authorization of a sleep study:

(A) Diagnosis and statement of medical appropriateness from the prescribing practitioner; and/or

(B) Copies of hospital records documenting medical appropriateness and diagnosis.

(5) Apnea Monitor, with recording feature:

(a) Indications and coverage:

(A) May be substituted for up to three months of prolonged apnea monitoring;

(B) Needed to support continuation of apnea monitoring beyond initial limits;

(C) May be substituted for apnea monitoring to determine frequency of real alarms.

(b) Documentation: The following documentation must be submitted for initial authorization of an apnea monitor with recording feature:

(A) Diagnosis and statement of medical appropriateness from the prescribing practitioner; and

(B) Copies of hospital records documenting medical appropriateness; and/or

(C) Documentation of ALTE from log, nursing notes or prescribing practitioner's progress records.

(6) Apnea Monitor Codes: Table 0240. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0300

Light Therapy

(1) A4633, Replacement bulb/lamp for ultraviolet light therapy system, each — OMAP will purchase.

(2) E0691, Ultraviolet light therapy system panel, includes bulbs/lamps, timer and eye protection; treatment area two square feet or less — Prior authorization required by OMAP — OMAP will purchase — OMAP will rent — OMAP will repair. Item considered purchased after 16 months of rent.

(3) E0692, Ultraviolet light therapy system panel, includes bulbs/lamps, timer and eye protection, four foot panel — Prior authorization required by OMAP — OMAP will purchase — OMAP will rent — OMAP will repair. Item considered purchased after 16 months of rent.

(4) E0693, Ultraviolet light therapy system panel, includes bulbs/lamps, timer and eye protection, six foot panel — Prior authorization required by OMAP — OMAP will purchase — OMAP will rent — OMAP will repair. Item considered purchased after 16 months of rent.

(5) E0694, Ultraviolet multidirectional light therapy system in six foot cabinet, includes bulbs/lamps, timer and eye protection—Prior authorization required by OMAP — OMAP will purchase — OMAP will rent — OMAP will repair. Item considered purchased after 16 months of rent.

(6) S9098, Home visit, phototherapy services (e.g., bili-lite), including equipment rental, nursing services blood draw, supplies, and other services, per diem, per day — OMAP will rent.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0320

Manual Wheelchair Base

(1) Indications and Coverage:

(a) The purchase, rental, or modification of a manual wheelchair is covered when all of the following criteria are met:

(A) The client's condition is such that without the use of a wheelchair the client would be bed-confined or confined to a non-mobile chair; and

(B) The client is not functionally ambulatory and the wheelchair is necessary to function within the home.

(b) The Office of Medical Assistance Programs (OMAP) will not pay for backup chairs. Only one wheelchair will be maintained, rented, repaired, purchased or modified for each client to meet the medical appropriateness; however, if a client's current wheelchair no longer meets the medical appropriateness or repair to the wheelchair exceeds replacement cost, a new wheelchair may be authorized. If a client has a wheelchair that meets his/her medical needs regardless of who has obtained it, OMAP will not provide another chair;

(c) One month's rental of a wheelchair is covered if a client-owned wheelchair is being repaired;

(d) Living quarters must be able to accommodate requested wheelchair. OMAP will not be responsible for adapting the living quarters to accommodate the wheelchair;

(e) Backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, wheelchair gloves, and upgrades to allow performance of leisure or recreational activities are not covered;

(f) Wheelchair "poundage" (lbs) represents the weight of the usual configuration of the wheelchair without front riggings;

(g) Do not use E1399 for manual wheelchair base;

(h) Reimbursement for wheelchair codes includes all labor charges involved in the assembly and delivery of the wheelchair and all adjustments for three months after date the client takes delivery. Reimbursement also includes emergency services, education and on-going assistance with use of the wheelchair for three months after the client takes delivery.

(i) Nursing Facility:

(A) Use the correct base code for manual wheelchairs provided to clients in nursing facilities. The only wheelchairs covered in a nursing facility have been uniquely constructed, substantially modified, manual wheelchair for a specific person residing in a nursing facility;

(B) The wheelchair is considered customized when the unique seating, arm rests, leg rests and/or head rests, in combination, make it virtually impossible to meet another person's positioning needs in the wheelchair. Examples include, but are not limited to a pindot seating system, foam in place seating system, or other molded-to-client systems;

(C) The frame for the wheelchair base does not have to be customized or changed to meet the definition of a customized wheelchair in a nursing facility;

(D) Documentation must clearly describe the unique modification to the wheelchair and the custom seating system. Pictures of the client, measurements of body contour and completion of the OMAP 3125 by an impartial evaluator are required.

(E) When billing, use modifier U1 — Nursing Facility wheelchair.

(2) Documentation:

(a) Documentation of medical appropriateness which has been reviewed and signed by the treating prescribing practitioner (for example, CMN) must be kept on file by the DME provider;

(b) Submit list of all DME available or being used to meet the client's needs when requesting prior authorization (PA);

(c) Submit Wheelchair and Seating Prescription and Justification form (OMAP 3125) or reasonable facsimile, with recommendations for most appropriate equipment. This must be submitted by physical therapist, occupational therapist, prescribing practitioner, or registered nurse, when requesting a PA. The evaluation must include client's functional ambulation

status in their customary environment. This is not required when using K0001, K0002 or K0003 if no modifications are required;

(3) Procedure Codes:

(a) E1161 Manual adult size wheelchair, includes tilt-in-space — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Indications and coverage for tilt-in space: clients must meet the criteria for a wheelchair (manual or powered), plus the following:

(i) Dependent for transfers; and

(ii) Spends a minimum of four hours a day continuously in a wheelchair; and

(iii) Plan of care must address the need to change position at frequent intervals and not be left in the tilt position most of the time; and

(iv) One of the following:

(I) High risk of skin breakdown;

(II) Poor postural control, especially of the head and trunk;

(III) Hyper/hypotonia;

(IV) Requires frequent change of position with poor upright sitting.

(B) Documentation — must support the above criteria.

(b) K0001, Standard Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria: Weight >36 lbs; seat width 16" (narrow), 18" (adult); seat depth 16"; seat height >= 19" and ? 21"; back height — non-adjustable 16"-17"; arm style — fixed or detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable;

(c) K0002, Standard Hemi (low seat) Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent; also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Weight >36 lbs; seat width 16" (narrow), 18" (adult); seat depth 16"; seat height 17"-18"; back height — non-adjustable 16"-17"; arm style — fixed or detachable; footplate extension — 14"-17"; footrests — fixed or swingaway detachable;

(B) Covered when the client requires a lower seat height (17"-18") because of short stature or to enable the client to place his/her feet on the ground for propulsion.

(d) K0003, Lightweight Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent; also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Weight < 36 lbs; seat width 16" or 18"; seat depth 16"; seat height >= 17" and < 21"; back height — non-adjustable 16"-17"; arm height — fixed height, detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable;

(B) Covered when a client cannot functionally self-propel in a standard wheelchair using arms and/or legs and the client can and does self-propel in a lightweight wheelchair.

(e) K0004, High Strength, Lightweight Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Lifetime warranty on side frames and cross braces; weight < 34 lbs; seat width 14", 16" or 18"; seat depth 14" (child), 16" (adult); seat height >= 17" and < 21"; back height — sectional or adjustable 15"-19'; arm style — fixed or detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable;

(B) Covered when a client:

(i) Self-propels the wheelchair while engaging in frequent activities that cannot functionally be performed in a standard or lightweight wheelchair; or

(ii) The activities may cause permanent damage to a standard or lightweight chair; or

(iii) When a client requires a seat width, depth or height that cannot be accommodated in a standard, lightweight or hemi-wheelchair; and

(iv) Spends at least two hours per day in the wheelchair.

(f) K0005, Ultralightweight Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria. Lifetime warranty on side frames and cross braces; weight < 30 lbs; adjustable rear axle position; seat width 14", 16", or 18"; seat depth 14" (child), 16" (adult); seat height >= 17" and < 21"; arm style — fixed or detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable;

(g) K0006, Heavy Duty Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent; Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Seat width 18", seat depth 16" or 17"; seat height >19" and < 21"; back height — non-adjustable 16"-17"; arm style — fixed height, detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable; reinforced back and seat upholstery; can support client weighing >250 pounds or the client has severe spasticity;

(B) Covered if the client weighs more than 250 pounds, has severe spasticity, or has a mental/physical diagnosis that warrants a heavy-duty chair (e.g., has a history of damaging equipment due to diagnosis).

(h) K0007, Extra Heavy Duty Wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment by OMAP when client is a resident of a nursing facility, if it meets nursing facility criteria:

(A) Seat width 18"; seat depth 16" or 17"; seat height >19" and < 21"; Back height — non-adjustable 16"-17"; arm style — fixed height, detachable; footplate extension 16"-21"; footrests — fixed or swingaway detachable; reinforced back and seat upholstery; can support client weighing >300 pounds;

(B) Covered if the client weighs more than 300 pounds, has severe spasticity or has a mental/physical diagnosis that warrants a heavy duty chair (e.g., has a history of damaging equipment due to diagnosis).

(i) K0009, Other Manual Wheelchair/Base, PA required — OMAP will purchase, rent, and repair — Item considered purchased after 16 months of rent:

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993 f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 18-1994(Temp), f. & cert. ef. 4-1-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. l2-30- 94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0340

Wheelchair Options/Accessories

(1) Indications and Coverage:

(a) Covered if client meets the criteria for wheelchair. An option/accessory is not covered if its primary benefit is to allow the client to perform leisure or recreational activities;

(b) The options/accessories are necessary for the client to perform one or more of the following actions:

(A) Function in the home;

(B) Perform instrumental activities of daily living.

(c) Use K0108 for replacement wheelchair parts if no other code is appropriate;

(d) Use of pressure mapping device for specialized seating and positioning is included in the price of the wheelchair base, accessories or options.

(2) Documentation: Documentation of medical appropriateness which has been filled out, signed, and dated by the treating prescribing practitioner (for example, CMN) must be kept on file by the DME provider.

(3) Arm of Chair:

(a) K0015, Detachable, non-adjustable height armrest, each — the Office of Medical Assistance Programs (OMAP) will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0016, Detachable, adjustable height armrest, complete assembly, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent: Covered if the client requires an arm height that is different than that available using non-adjustable arms and the client spends at least two hours per day in the wheelchair;

(c) K0017, Detachable, adjustable height armrest, base, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client requires an arm height that is different than that available using non-adjustable arms and the client spends at least two hours per day in the wheelchair;

(d) K0018, Detachable, adjustable height armrest, upper portion, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-

owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client requires an arm height that is different than that available using non-adjustable arms and the client spends at least two hours per day in the wheelchair;

(e) K0019, Arm pad, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(f) K0020, Fixed, adjustable height armrest, pair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client requires an arm height that is different than that available using non adjustable arms and the client spends at least two hours per day in the wheelchair.

(4) Back of Chair:

(a) E0971, Anti-tipping device, wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0022, Reinforced back upholstery — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Included in the allowance for a heavy duty or extra heavy duty wheelchair;

(B) Not medically appropriate if used in conjunction with other manual wheelchair bases;

(C) Covered if used with a power wheelchair base and the client weighs more than 200 pounds.

(c) K0023, Solid back insert, planar back, single density foam, attached with straps — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent — A prefabricated back seating module which is incorporated into a wheelchair base;

(d) K0024, Solid back insert, planar back, single density foam, with adjustable hook-on hardware — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent — A prefabricated back seating module which is incorporated into a wheelchair base;

(e) K0025, Hook-on headrest extension — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client has weak neck muscles and needs a headrest for support or meets the criteria for and has a reclining back on the wheelchair;

(f) K0026, Back upholstery for ultralightweight or high-strength lightweight wheelchair — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(g) K0027, Back upholstery for wheelchair type other than ultralightweight or high-strength lightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(h) K0028, Manual, fully reclining back — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility — Item considered purchased after 16 months of rent:

(A) Covered if the client spends at least two hours per day in the wheelchair and has one or more of the following conditions/needs:

(i) Quadriplegia;

(ii) Fixed hip angle;

(iii) Trunk or lower extremity casts/braces that require the reclining back feature for positioning;

(iv) Excess extensor tone of the trunk muscles;

(v) Client needs to rest in a recumbent position two or more times during the day and transfer between wheelchair and bed is very difficult.

(B) Use for fully reclining back which is manually operated.

(5) Seating Systems:

(a) Item is individually made for a client using:

(A) A plaster model of the client;

(B) A computer-generated model of the client (CAD-CAM technology); or

(C) Detailed measurements of the client used to create a curved foam custom fabricated component.

(b) Not used for seating components that are ready made but subsequently modified to fit an individual client;

(c) Indications and Coverage: Seating systems are covered when:

(A) The client has a significant spinal deformity and/or severe weakness of the trunk muscles; and

(B) The client's need for prolonged sitting tolerance, postural support to permit functional activities, or pressure reduction cannot be met adequately by a prefabricated seating system; and

(C) The client is expected to be in the wheelchair at least two hours per day.

(d) K0115, Seating systems, back module, posterior-lateral control, with or without lateral supports, custom fabricated for attachment to wheelchair base — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(e) K0116, Seating systems, combined back and seat module, custom fabricated for attachment to wheelchair base. A one-piece system including both back and seat component — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility.

(6) Seat:

(a) E0962, 1"cushion, for wheelchair, any type — OMAP will purchase;

(b) E0963, 2"cushion, for wheelchair, any type — OMAP will purchase;

(c) E0964, 3"cushion, for wheelchair, any type — OMAP will purchase;

(d) E0965, 4"cushion, for wheelchair, any type — OMAP will purchase;

(e) K0029, Reinforced seat upholstery — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Included in the allowance for a heavy duty or extra heavy duty wheelchair;

(B) Not medically appropriate if used in conjunction with other manual wheelchair bases;

(C) Covered if used with a power wheelchair base and the client weighs more than 200 pounds.

(f) K0030, Solid seat insert, planar seat, single density foam — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Includes hardware;

(B) Covered when the client spends at least two hours per day in the wheelchair.

(g) K0031, Safety belt/pelvic strap, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client has weak upper body muscles, upper body instability or muscle spasticity which requires use of this item for proper positioning;

(h) K0032, Seat upholstery for ultralightweight or high-strength lightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(i) K0033, Seat upholstery for wheelchair type other than ultra lightweight or high strength lightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(7) Footrest/Legrest:

(a) E0951, Loop heel, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) E1020, Residual limb support system for wheelchair — OMAP will purchase, rent, and repair — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(c) K0035, Heel loop with ankle strap, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resi-

dent of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) K0036, Toe loop, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(e) K0037, High mount flip-up footrest, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(f) K0038, Leg strap, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(g) K0039, Leg strap, H style, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(h) K0040, Adjustable angle foot-plate, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(i) K0041, Large size foot-plate, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(j) K0042, Standard size foot-plate, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(k) K0043, Footrest, lower extension tube, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(l) K0044, Footrest, upper hanger bracket, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(m) K0045, Footrest, complete assembly — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(n) K0046, Elevating leg rest, lower extension tube, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client has a musculoskeletal condition or the presence of a cast or brace which prevents 90 degree flexion at the knee, has significant edema of the lower extremities that requires having an elevating leg rest, or criteria for a reclining back option are met, and the client has a wheelchair with a reclining back;

(o) K0047, Elevating leg rest, upper hanger bracket, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client has a musculoskeletal condition or the presence of a cast or brace which prevents 90 degree flexion at the knee, has significant edema of the lower extremities that requires having an elevating leg rest, or criteria for a reclining back option are met, and the client has a wheelchair with a reclining back;

(p) K0048, Elevating leg rest, complete assembly, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Use for the repair or replacement of an elevating leg rest for a client-owned wheelchair;

(B) Covered if the client has a musculoskeletal condition or the presence of a cast or brace which prevents 90 degree flexion at the knee, has significant edema of the lower extremities that requires having an elevating leg rest, or criteria for a reclining back option are met, and the client has a wheelchair with a reclining back.

(q) K0049, Calf pad, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(r) K0050, Ratchet assembly — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(s) K0051, Cam release assembly, footrest or leg rest, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(t) K0052, Swing-away, detachable footrests, each, replacement — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Included in allowance for the wheelchair base;

(u) K0053, elevating footrests, articulating (telescoping), each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client has a musculoskeletal condition, or the presence of a cast or brace which prevents 90 degree flexion at the knee, has significant edema of the lower extremities that requires having an elevating leg rest, or criteria for a reclining back option are met;

(v) K0195, elevating leg rests, pair (for use with capped rental wheelchair base) — OMAP will purchase, rent, and repair — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Covered if the client has a musculoskeletal condition, or the presence of a cast or brace which prevents 90 degree flexion at the knee, has significant edema of the lower extremities that requires having an elevating leg rest, or criteria for a reclining back option are met;

(8) Seat width, depth, height:

(a) K0054, Seat width of 10", 11", 12", 15", 17", or 20" for a high strength, lightweight or ultralightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered only if the ordered item is at least 2"greater than or less than a standard option and the client's dimensions justify the need;

(b) K0055, Seat depth of 15", 17", or 18" for a high strength, lightweight or ultralightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered only if the ordered item is at least 2" greater than or less than a standard option and the client's dimensions justify the need;

(c) K0056, Seat height < 17" or > 21" for a high strength, lightweight or ultralightweight wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered only if the ordered item is at least 2" greater than or less than a standard option and the client's dimensions justify the need;

(d) K0057, Seat width 19" or 20" for heavy duty or extra heavy duty chair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered only if the ordered item is at least 2" greater than or less than a standard option and the client's dimensions justify the need;

(e) K0058, Seat depth 17" or 18" for motorized/power wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered only if the ordered item is at least 2"greater than or less than a standard option and the client's dimensions justify the need.

(9) Handrims Without Projections:

(a) K0059, Plastic coated handrim, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0060, Steel handrim, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(c) K0061, Aluminum handrim, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(10) Handrims with Projections:

(a) K0062, Handrim with 8-10 vertical or oblique projections, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0063, Handrim with 12-16 vertical or oblique projections, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(11) Rear Wheels:

(a) K0064, Zero pressure tube (flat free inserts), any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0065, Spoke protectors, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(c) K0066, Solid tire, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) K0067, Pneumatic tire, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent — If both a pneumatic tire and pneumatic tire tube are provided on the same date, bill both K0067 and K0068;

(e) K0068, Pneumatic tire tube, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent — If both a pneumatic tire and pneumatic tire tube are provided on the same date, bill both K0067 and K0068;

(f) K0069, Rear wheel assembly, complete, with solid tire, spokes or molded, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(g) K0070, Rear wheel assembly, complete, with pneumatic tire, spokes or molded, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(12) Front Casters:

(a) K0071, Front caster assembly, complete, with pneumatic tire, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0072, Front caster assembly, complete, with semi-pneumatic tire, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(c) K0073, Caster pin lock, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) K0074, Pneumatic caster tire, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(e) K0075, Semi-pneumatic caster tire, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(f) K0076, Solid caster tire, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(g) K0077, Front caster assembly, complete, with solid tire, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(h) K0078, Pneumatic caster tire tube, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(13) Wheel Lock:

(a) K0079, Wheel lock extension, pair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0080, Anti-rollback device, pair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client propels himself/herself and needs the device because of ramps;

(c) K0081, Wheel lock assembly, complete, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(14) Batteries/Chargers for Motorized/Power Wheelchair:

(a) K0082, 22 NF non-sealed lead acid battery, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(b) K0083, 22 NF sealed lead acid battery, each (e.g., gel cell, absorbed glass mat) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(c) K0084, Group 24 non-sealed lead acid battery, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(d) K0085, Group 24 sealed lead acid battery, each (e.g., gel cell, absorbed glass mat) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(e) K0086, U-1 non-sealed lead acid battery, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(f) K0087, U-1 sealed lead acid battery, each (e.g., gel cell, absorbed glass mat) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair. Separately payable from the purchased wheelchair base;

(g) K0088, Battery charger, single mode, for use with only one battery type, sealed or non-sealed — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Covered if criteria for a power wheelchair are met;

(B) There will be no additional allowance if a dual mode charger is used;

(C) A battery charger is included in the allowance for a power wheelchair base (K0010-K0014);

(D) A battery charger should be billed separately only when it is a replacement.

(15) Motorized/Power Wheelchair Parts:

(a) K0090, Rear wheel tire for power wheelchair, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) K0091, Rear wheel tire tube other than zero pressure for power wheelchair, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(c) K0092, Rear wheel assembly for power wheelchair, complete, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) K0093, Rear wheel zero pressure tire tube (flat free insert) for power wheelchair, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(e) K0094, Wheel tire for power base, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(f) K0095, Wheel tire tube other than zero pressure for each base, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(g) K0096, Wheel assembly for power base, complete, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(h) K0097, Wheel zero pressure tire tube (flat free insert) for power base, any size, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(i) K0098, Drive belt for power wheelchair — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(j) K0099, Front caster for power wheelchair, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(16) Shock absorbers:

(a) E1015, Shock absorber for manual wheelchair, each — OMAP will purchase, rent and repair — PA required. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) E1016, Shock absorber for power wheelchair, each — OMAP will purchase, rent and repair — PA required. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(c) E1017, Heavy duty shock absorber for heavy duty or extra heavy duty manual wheelchair, each — PA required — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) E1018, Heavy duty shock absorber for heavy duty or extra heavy duty power wheelchair — OMAP will purchase, rent and repair — PA required. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(17) Miscellaneous Accessories:

(a) K0100, Wheelchair adapter for amputee, pair (device used to compensate for transfer of weight due to lost limbs to maintain proper balance) — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(b) E0958, Wheelchair attachment to convert any wheelchair to one arm drive — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if the client propels the chair himself/herself with only one hand and the need is expected to last at least six months;

(c) K0103, Transfer board, < 25" — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(d) K0104, Cylinder tank carrier, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(e) K0105, IV hanger, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(f) K0106, Arm trough, each — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent. Covered if client has quadriplegia, hemiplegia, or uncontrolled arm movements;

(g) K0107, Wheelchair tray — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(h) K0108, Wheelchair component or accessory, not otherwise specified — Prior authorization (PA) required — OMAP will purchase, rent and repair. Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent:

(A) Each item requested must be itemized with a clear description of item, manufacturer, model name number, Manufacturer's Suggested Retail Price (MSRP) and price;

(B) For option or accessories in which coverage rules have not been explicitly defined, the prescribing practitioner's order must include the item and a statement describing why that feature is medically appropriate in the particular client;

(C) Used for but not limited to:

(i) Nonstandard seat dimensions that do not fall under specific codes;

(ii) Power reclining back and power recline tilt as add-on to K0014;

(iii) Lateral thoracic supports;

(iv) Hip guides;

(v) Accessories or options for a new wheelchair and replacement parts for a wheelchair being repaired;

(vi) Thigh abduction pommels;

(vii) Seat backs or cushions that do not fall under specific codes;

(viii) Non-joystick control devices;

(ix) Upgraded electronics;

(x) Custom fabricated seat component when billing for a two-piece seating system (use K0115 for the custom fabricated back component);

(xi) Nonstandard seat height that does not fall under specific codes, (e.g., 16"height);

(xii) Roho mini max for wheelchair back;

(i) K0452, Wheelchair bearings, any type — OMAP will purchase — also covered for payment by OMAP when client is a resident of a nursing facility, if supplied for client-owned wheelchair;

(j) K0460, Power add-on, to convert manual wheelchair to motorized wheelchair, joystick control — PA required — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent;

(k) K0461, Power add-on, to convert manual wheelchair to power operated vehicle, tiller control — PA required — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility if supplied for client-owned wheelchair — Item considered purchased after 16 months of rent.

(17) Pressure Pads:

(a) E0176, Air pressure pad or cushion, non-positioning — PA required — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(b) E0178, Gel or gel-like pressure pad or cushion, non-positioning — PA required — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(c) E0179, Dry pressure pad or cushion, non-positioning — OMAP will purchase;

(d) E0192, Low pressure and positioning equalization pad for wheelchair — PA required — OMAP will purchase and repair — Also covered for payment by OMAP when client is a resident of a nursing facility.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0360

Canes and Crutches

(1) Indications and Coverage: When prescribed by a practitioner for a client with a condition causing impaired ambulation and there is a potential for ambulation.

(2) Documentation:

(a) An order for the cane or crutch which is signed by the prescribing practitioner must be kept on file by the supplier. The prescribing practitioner's records must contain information which supports the medical appropriateness of the item ordered;

(b) A white cane for a visually impaired client is considered to be a self-help item and is not covered by the Office of Medical Assistance Programs (OMAP). Table 0360. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0365

Standing and Positioning Aids

(1) Indications and coverage: If a client has one aid that meets his/her medical needs, regardless of who obtained it, the Office of Medical Assistance Programs (OMAP) will not provide another aid of same or similar function.

(2) Documentation — to be submitted for prior authorization (PA) and kept on file by the Durable Medical Equipment (DME) provider:

(a) Documentation of medical appropriateness, which has been reviewed and signed by the prescribing practitioner;

(b) The care plan outlining positioning and treatment regime, and all DME currently available for use by the client;

(c) An order which has been signed and dated by the prescribing practitioner;

(d) The documentation for customized positioner must include objective evidence that commercially available positioners are not appropriate;

(e) Each item requested must be itemized with description of product, make, model number, and manufacturers suggested retail price (MSRP);

(f) Submit Positioner Justification form (OMAP 3155) or reasonable facsimile, with recommendation for most appropriate equipment. This must be submitted by physical therapist, occupational therapist, or prescribing practitioner when requesting a PA;

(g) List of all DME owned or available for client's use.

(3) Procedure Codes:

(a) E1399, Durable medical equipment, miscellaneous, includes, but is not limited to: standing frame — PA required by OMAP — OMAP will purchase — rent — repair. Item considered purchased after 16 months of rent. OMAP will purchase if the following criteria are met:

(A) The client must be sequentially evaluated by a physical therapist or occupational therapist to make certain they are able to tolerate and obtain medical benefit from standing positioner;

(B) The client must be following a therapy program initially established by physical or occupational therapist;

(C) The weight of client must not exceed manufacturer's weight capacity;

(D) The client has demonstrated compliance with other programs;

(E) The client has demonstrated ability to utilize independently or with care-giver;

(F) The client has demonstrated successful trial period in monitored setting;

(G) The client does not have access to equipment from another source;

(H) The home must be able to accommodate the equipment;

(I) Not covered:

(i) Mobility option;

(ii) Manual; or

(iii) Electric.

(b) E1399, Durable medical equipment, miscellaneous, includes, but is not limited to: Sidelyer (includes accessories) — OMAP will purchase and repair — PA required by OMAP — Covered if the following criteria are met:

(A) The client has contractures that are capable of being reduced or fixed contractures; or

(B) The client has positioning and support needs that cannot be met with other positioning devices; or

(C) Positioning is needed to prevent reflux during feeding; and

(D) Must be sequentially evaluated by a physical or occupational therapist to make certain able to tolerate and obtain medical benefit; and

(E) Must be following a therapy program initially established by a physical or occupational therapist; and

(F) The caregiver and/or family are capable of using the equipment appropriately; and

(G) The home must be able to accommodate the equipment.

(c) E1399, Durable medical equipment, miscellaneous, includes, but is not limited to: Custom positioner — OMAP will purchase and repair — PA required by OMAP:

(A) Labor is included in the purchase price;

(B) Not used for positioners that are ready-made and subsequently modified to fit an individual client;

(C) The positioner is considered customized when it is virtually impossible to meet another person's positioning needs in the equipment;

(D) Custom positioner is covered if the following criteria are met:

(i) The configuration of the client's body cannot be supported by commercially available positioners due to size, orthopedic deformities, physical deformities or pressure ulcers;

(ii) Must be sequentially evaluated by a physical or occupational therapist to make certain able to tolerate and obtain medical benefit;

(iii) Must be following a therapy program initially established by a physical or occupational therapist;

(iv) The home must be able to accommodate the equipment;

(v) The caregiver and/or family are capable of using the equipment appropriately.

(d) E1399, Durable medical equipment, miscellaneous, includes, but is not limited to: Prone stander, supine stander or board — PA required by OMAP — OMAP will purchase, OMAP will rent, OMAP will repair — Item considered purchased after 16 months of rent. Covered if the following criteria are met:

(A) The client must be sequentially evaluated by a physical therapist or occupational therapist to make certain able to tolerate and obtain medical benefit from standing positioner;

(B) The client must be following a therapy program initially established by physical or occupational therapist;

(C) The weight of client must not exceed manufacturer's weight capacity;

(D) The client has demonstrated compliance with other programs;

(E) The client has demonstrated ability to utilize independently or with caregiver;

(F) The client has demonstrated successful trial period in monitored setting;

(G) The client does not have access to equipment from another source; and

(H) The home must be able to accommodate the equipment.

(e) E1399, Durable medical equipment, miscellaneous, includes, but is not limited to: Accessories for standing frame — OMAP will purchase and repair — PA required by OMAP. Covered if the following criteria are met:

(A) Cannot be successfully positioned in equipment without specified accessories;

(B) The client must be sequentially evaluated by a physical therapist or occupational therapist to make certain able to tolerate and obtain medical benefit from standing positioner;

(C) The client must be following a therapy program initially established by physical or occupational therapist;

(D) The weight of client must not exceed manufacturer's weight capacity;

(E) The client has demonstrated compliance with other programs;

(F) The client has demonstrated ability to utilize independently or with caregiver;

(G) The client has demonstrated successful trial period in monitored setting;

(H) The client does not have access to equipment from another source;

(I) The home must be able to accommodate the equipment.

(4) Criteria for Specific Accessories:

(a) Back support:

(A) Needed for balance, stability, or positioning assistance;

(B) Has extensor tone of the trunk muscles;

(C) Does not have trunk stability to support themselves while being raised or while completely standing.

(b) Tall back:

(A) The client is over 5'11" tall;

(B) The client has no trunk control at all and needs additional support;

(C) The client has more involved need for assistance with balance, stability, or positioning.

(c) Hip guides:

(A) Lacks motor control and/or strength to center hips;

(B) Has asymmetrical tone which causes hips to pull to one side;

(C) Spasticity;

(D) Low tone or high tone;

(E) Need for balance, stability, or positioning assistance.

(d) Shoulder retractor or harness:

(A) Cannot maintain erect posture without support due to lack of motor control or strength;

(B) Kyphosis;

(C) Presence of strong flex or tone.

(e) Lateral supports:

(A) Lacks trunk control to maintain lateral stability;

(B) Has scoliosis which requires support;

(C) Needs a guide to find midline.

(f) Head rest:

(A) Lacks head control and cannot hold head up without support;

(B) Has strong extensor thrust pattern that requires inhibition.

(g) Independent adjustable knee pads:

(A) Has severe leg length discrepancy;

(B) Has contractures in one leg greater than the other.

(h) Actuator handle extension:

(A) No caregiver; and

(B) Able to transfer independently into standing frame; and

(C) Has limited range of motion in arm and/or shoulder and cannot reach actuator in some positions.

(i) Arm troughs:

(A) Has increased tone which pulls arms backward so hands cannot come to midline;

(B) Tone, strength, or control is so poor arms hang out to side and backward, causing pain and risking injury;

(C) For posture.

(j) Tray: Positioning that cannot be met by other accessories;

(k) Abductors: Reduce tone for alignment to bear weight properly;

(l) Sandals (shoe holders):

(A) Dorsiflexion of the foot or feet;

(B) Planar flexion of the foot or feet;

(C) Eversion of the foot or feet;

(D) Safety.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0375

Walkers

(1) Indications and coverage:

(a) A standard walker (E0130, E0135, E0141, E0143) is covered if both of the following criteria are met:

(A) When prescribed by a prescribing practitioner for a client with a medical condition impairing ambulation and there is a potential for increasing ambulation; and

(B) When there is a need for greater stability and security than provided by a cane or crutches.

(b) Use E1399 for glide-type brakes replacement;

(c) Follow Medicare's coding guidelines from the latest version of the CIGNA Supplier Manual.

(2) Documentation: An order for the walker which is signed by the prescribing practitioner must be kept on file by the DME supplier. The prescribing practitioner's records must contain information which supports the medical appropriateness of the item ordered, including height and weight. Table 0375. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0420

Hospital Bed Accessories

(1) Frames, Traction Devices, etc.:

(a) E0840, Traction frame, attached to headboard, cervical traction — the Office of Medical Assistance Programs (OMAP) will purchase, rent and repair — Item considered purchased after 16 months of rent;

(b) E0850, Traction stand, free-standing, cervical traction — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(c) E0855, Cervical traction equipment not requiring additional stand or frame — OMAP will purchase, rent, and repair — item considered purchased after 16 months of rent;

(d) E0860, Traction equipment, overdoor, cervical — OMAP will purchase;

(e) E0870, Traction frame, attached to footboard, extremity traction (e.g., Buck's) — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(f) E0880, Traction stand, free-standing, extremity traction, (e.g., Buck's) — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(g) E0890, Traction frame, attached to footboard, pelvic traction — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(h) E0900, Traction stand, free-standing, pelvic traction (e.g., Buck's) — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(i) E0920, Fracture frame, attached to bed, includes weights — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(j) E0930, Fracture frame, free-standing, includes weights — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(k) E0941, Gravity assisted traction device, any type — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(l) E0942, Cervical head harness/halter — OMAP will purchase;

(m) E0943, Cervical pillow — OMAP will purchase;

(n) E0944, Pelvic belt/harness/boot — OMAP will purchase;

(o) E0945, Extremity belt/harness — OMAP will purchase;

(p) E0946, Fracture frame, dual with cross bars, attached to bed (e.g., Balken, 4-poster) — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(q) E0947, Fracture frame, attachments for complex pelvic traction — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent;

(r) E0948, Fracture frame, attachments for complex cervical traction — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent.

(2) Mattresses:

(a) E0271, Mattress, inner spring (replacement for client owned hospital bed) — OMAP will purchase;

(b) E0272, Mattress, foam rubber (replacement for client owned hospital bed) — OMAP will purchase.

(3) Rails:

(a) E0305, Bedside rails, half length, for use with hospital or non-hospital bed — OMAP will purchase — OMAP will rent — Item considered purchased after 16 months of rent.

(b) E0310, Bedside rails, full length, for use with hospital or non-hospital bed — OMAP will purchase — OMAP will rent — Item considered purchased after 16 months of rent.

(4) Trapeze Bars:

(a) Indications and Coverage: Trapeze bars are indicated when client needs this device to sit up because of respiratory condition, to change body position for other medical reasons, or to get in or out of bed;

(b) Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider;

(c) E0910, Trapeze bars, a.k.a. client helper, attached to bed, complete with grab bar — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent:

(A) Not covered when used on a non-hospital bed;

(B) Covered when it is either an integral part of or used on a hospital bed and both the hospital bed and the trapeze bar are medically appropriate.

(d) E0940, Trapeze bar, free-standing, complete with grab bar — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. When prescribed, it must meet the same criteria as the attached equipment and the client must not be renting or own a hospital bed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0470
Supports and Stockings

(1) Cosmetic support panty hose (i.e., Leggs®, No Nonsense®, etc.) are not covered.

(2) Procedure Codes — Table 0470. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0500
Transcutaneous Electrical Nerve Stimulator (TENS)

(1) Indications and Coverage:

(a) A transcutaneous electrical nerve stimulator (TENS) is covered when it is medically appropriate in the treatment of clients with chronic, intractable pain or acute post-operative pain who meet the criteria;

(b) May be covered for acute post-operative pain for no more than one month following day of surgery. Continued coverage requires further documentation;

(c) Not covered:

(A) To treat motor function disorders;

(B) For acute pain (less than three months duration) other than post-operative pain;

(C) For etiology that is not accepted as responding to TENS (e.g., headache, visceral abdominal pain, pelvic pain, temporomandibular joint (TMJ) pain and others).

(d) Two month trial period of rental:

(A) A two-month trial period of rental is required prior to purchase. Rental price starting with the initial date of service applies to purchase price regardless of payor;

(B) Included in the rental price are: adapters (snap, banana, alligator, tab, button, clip), belt clips, adhesive remover, leadwires, electrodes, additional connecting cable for lead wires, carrying pouches or covers, all necessary training and one months worth of TENS supplies for each month rented;

(C) There should be no separate billing and there will be no separate allowance for replacement electrodes (A4556), conductive paste or gel (A4558), replacement batteries (A4630) or a battery charger.

(2) Documentation:

(a) Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner (for example, CMN) must be kept on file by the DME provider;

(b) For initial request for rental:

(A) For post-operative pain include type and date of surgery and diagnosis, other appropriate treatment modalities tried, including names and dosage of medication, length of each treatment time and the results;

(B) For chronic intractable pain include etiology, length of time pain has been present (must have been present for at least three months), location of pain and other treatment tried and failed.

(c) For purchase following rental: Proof of efficacy and compliance from the prescribing practitioner;

(d) To continue supplies: The following documentation must be received every six months:

(A) A new CMN; or

(B) Other documentation of medical appropriateness.

(3) Procedure Codes:

(a) A4557, Lead wires, (e.g., apnea monitor), per pair — Prior authorization (PA) required by the Office of Medical Assistance Programs (OMAP) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility:

(A) One unit of service is for lead wires going to two electrodes;

(B) If all the lead wires of a four lead TENS unit needed to be replaced, billing would be for two units of service.

(b) A4595, Electrical stimulator supplies (e.g., TENS, NMES), 2 lead, per month — PA required by OMAP — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility:

(A) Includes electrodes (any type) conductive paste or gel (if needed, depending on the type of electrode), tape or other adhesive (if needed, depending on the type of electrode), adhesive remover, skin preparation materials, batteries (9 volt or AA, single use or rechargeable), and a battery charger (if rechargeable batteries are used);

(B) One unit of service represents supplies needed for one month for a two lead TENS assuming daily use. Two units of service for one month for a client-owned four lead TENS.

(c) E0720, TENS, two lead, localized stimulation — PA required by OMAP — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility — Item considered purchased after 16 months of rent;

(d) E0730, TENS, four or more leads for, multiple nerve stimulation — PA required by OMAP — OMAP will purchase, rent and repair — Also covered for payment by OMAP when client is a resident of a nursing facility — Item considered purchased after 16 months of rent.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0510
Electronic Stimluators

(1) Osteogenic Stimulators — Indications and Coverage:

(a) Nonspinal Electrical Osteogenesis Stimulator:

(A) A nonspinal electrical osteogenesis stimulator is covered only if any of the following criteria are met:

(i) Nonunion of a long bone fracture defined as radiographic evidence that fracture healing has ceased for three or more months prior to starting treatment with the osteogenenisis stimulator; or

(ii) Failed fusion of a joint other than in the spine where a minumum of nine months has elapsed since the last surgery; or

(iii) Congenital pseudarthrosis.

(B) Nonunion of a long bone fracture must be documented by a minumum of two sets of radiographs obtained prior to starting treatment with the osteogenesis stimulator, separated by a minumum of 90 days, each including multiple views of the fracture site, and with a written interpretation by a prescribing practitioner stating that there has been no clinically significant evidence of fracture healing between the two sets of radiographs.

(b) Ultrasonic Osteogenic Stimulators:

(A) Use of ultrasonic osteogenic stimulator is only covered when all of the following criteria are met:

(i) Non-union of a fracture documented by a minimum of two sets of radiographs obtained prior to starting treatment with the osteogenis stimulator, separated by a minimum of 90 days. Each radiograph must include multiple views of the fracture site accompanied with a written interpretation by a prescribing practitioner stating that there has been no clinically significant evidence of fracture healing between the two sets of radiographs; and

(ii) Documentation that the client failed at least one surgical intervention for the treatment of the fracture.

(B) Not covered:

(i) Nonunions of the skull, vertebrae, and those that are tumor related;

(ii) When used concurrently with other noninvasive osteogenic devices;

(iii) Fresh fractures and delayed unions.

(c) Spinal Electrical Osteogenesis Stimulator — Use of the noninvasive spinal electrical osteogenesis stimulator is only covered for the following indications:

(A) Failed spinal fusion where a minimum of nine months has elapsed since the last surgery; or

(B) Following a multilevel spinal fusion surgery; or

(C) Following spinal fusion surgery where there is a history of a previously failed spinal fusion at the same site.

(d) Documentation:

(A) The following must be submitted for authorization for osteogenesis stimulators:

(i) Documentation of other alternative treatments tried but found ineffective;

(ii) Copies of prescribing practitioner's progress records;

(iii) Copies of X-ray reports;

(iv) Copies of surgical reports for authorization of ultrasonic osteoenic stimulators;

(v) Statement of medical appropriateness or copy of CMN from prescribing practitioner.

(B) Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner (for example, CMN) must be kept on file by the Durable Medical Equipment (DME) provider.

(e) Procedure Codes:

(A) E0747, Osteogenis stimulator electrical (non-invasive) other than spinal application. One time payment per condition — Prior authorization (PA) required by the Office of Medical Assistance Programs (OMAP) — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(B) E0748, Osteogenesis stimulator, electrical, noninvasive, spinal applications — OMAP will purchase — one time payment per condition — PA required by OMAP — also covered for payment by OMAP when client is a resident of a nursing facility;

(C) E0760, Osteogenesis stimulator, low intensity ultrasound, noninvasive — OMAP will purchase — PA required by OMAP — Also covered for payment by OMAP when client is a resident of a nursing facility.

(2) Neuromuscular Stimulator:

(a) Indications and Coverage:

(A) Treatment of disuse atrophy where the nerve supply to the muscle is intact, including brain, spinal cord, and peripheral nerves, and other non-neurological reasons for disuse are causing atrophy. Examples include but are not limited to:

(i) Casting or splinting of a limb;

(ii) Contracture due to scarring of soft tissue as in burn lesions;

(iii) Hip replacement surgery (until orthotic training begins).

(B) Relation of muscle spasm;

(C) Prevention or retardation of disuse atrophy;

(D) Re-education of muscle;

(E) Increasing local blood circulation;

(F) Maintaining or increasing range of motion.

(b) Documentation. The following must be submitted for authorization:

(A) Copies of prescribing practitioner's progress records;

(B) Statement of medical appropriateness from prescribing practitioner;

(C) Copy of practitioner's prescription;

(D) Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider.

(c) Procedure Codes:

(A) A4595, Electrical stimulator supplies, two lead, per month (e.g., TENS, NMES). Includes electrodes (any type) conductive paste or gel (if needed, depending on the type of electrode), tape or other adhesive (if needed, depending on the type of electrode), adhesive remover, skin preparation materials, batteries (9 volt or AA, single use or rechargeable), and a battery charger (if rechargeable batteries are used);

(B) E0745, Neuromuscular stimulator, electronic shock unit. PA required by OMAP — OMAP will rent, purchase and repair — Item considered purchased after 16 months of rent — Also covered for payment by OMAP when client is a resident of a nursing facility.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0525
External Insulin Infusion Pump

(1) Indications and Coverage:

(a) Administration of continuous subcutaneous insulin for the treatment of diabetes mellitus, type I which has been documented by a serum C-peptide level ? 110% of the lower limit of normal of the laboratory's measurement method, must meet criteria (1) or (2):

(A) 1 — The client has completed a comprehensive diabetes education program, has been on a program of multiple daily injections of insulin (i.e., at least three injections per day), with frequent self-adjustments of insulin dose for at least six months prior to initiation of the insulin pump, and has documented frequency of glucose self-testing an average of at least four times per day during the two months prior to initiation of the insulin pump, and meets criteria A while on the multiple injection regimen:

(i) A — Glycosylated hemoglobin level (HbA1C) >7%;

(ii) Plus one or more of the following:

(I) B — History of recurring hypoglycemia;

(II) C — Wide fluctuations in blood glucose before mealtime;

(III) D — Dawn phenomenon with fasting blood sugars frequently exceeding 200 mg/dL;

(IV) E — History of severe glycemic excursions.

(B) 2 — The client with type I diabetes has been on an external insulin infusion pump prior to enrollment in the Medical Assistance Program and has documented frequency of glucose self-testing an average of at least four times per day during the month prior to Medical Assistance Program enrollment.

(b) Continued coverage of an external insulin pump requires that the client be seen and evaluated by the treating prescribing practitioner at least every three months;

(c) In addition, the external insulin infusion pump must be ordered and follow-up care rendered by a prescribing practitioner who manages multiple clients on continuous subcutaneous insulin infusion therapy and who works closely with a team including nurses, diabetic educators, and dieticians who are knowledgeable in the use of continuous subcutaneous insulin infusion therapy.

(2) Documentation: Medical justification which supports the above criteria must be submitted with the request for prior authorization (PA) and kept on file by the DME provider.

(3) Procedure Codes:

(a) A4221, Supplies for maintenance of drug infusion catheter, per week. Includes catheter insertion devices for use with external insulin infusion pump infusion cannulas, includes all cannulas, needles, dressings and infusion supplies — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility — PA required by OMAP;

(b) A4232, Syringe with needle for external insulin pump, sterile, 3 cc. — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility — PA required by OMAP:

(A) Does not include the insulin;

(B) Describes the insulin reservoir for use with E0784.

(c) A4632, Replacement battery for external infusion pump, any type, each — OMAP will purchase — Also covered for payment by OMAP when client is a resident of a nursing facility;

(d) E0784, External ambulatory infusion pump, insulin. Includes instruction in use of pump — OMAP will purchase, rent, repair — Item considered purchased after 16 months of rent — Also covered for payment by OMAP when client is a resident of a nursing facility — PA required by OMAP.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0540
Ostomy Supplies: Colostomy, Illeostomy, Ureterostomy

(1) Indications and Coverage: Ostomy supplies are covered for use for clients with a surgically created opening (stoma) to divert urine, feces, or ilial contents to outside of the body.

(2) Documentation: Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider. An order for the ostomy supplies which has been signed and dated by the prescribing practitioner must be kept on file by the DME provider.

(3) Procedure Codes — Table 0540. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0560
Urological Services

(1) Urinary catheters and external urinary collection devices are covered to drain or collect urine for a client who has permanent urinary incontinence or permanent urinary retention.

(2) Permanent urinary retention is defined as retention that is not expected to be medically or surgically corrected in that client within three months.

(3) This does not require a determination that there is no possibility that the client's condition may improve sometime in the future.

(4) If the medical record, including the judgement of the attending prescribing practitioner, indicates the condition is of long and indefinite duration (ordinarily at least three months), the test of permanence is considered met.

(5) Follow Medicare's guidelines for usage exceeding the stated limits per DMERC Region D Supplier Manual.

(6) Documentation:

(a) Documentation of medical appropriateness which has been reviewed and signed by the prescribing practitioner must be kept on file by the DME provider;

(b) When billing for quantities of supplies greater than those described in the policy (e.g., more than one indwelling catheter per month, more than two bedside drainage bags per month, more than 35 male external catheters per month, etc.) documentation supporting the medical appropriateness for the higher utilization must be on file in the DME provider's records.

(7) Procedure Codes — Table 0560. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0580
Bath Supplies

(1) Indications and Coverage. A rehab shower/commode chair is covered if client meets the following criteria:

(a) Muscular-skeletal condition that makes a standard shower chair/bench unusable; and

(b) Needs positioning, trunk stability, or neck support for safe use of chair.

(2) Documentation:

(a) An order for the supply which is signed by the prescribing practitioner must be kept on file by the DME supplier. The prescribing practitioner's records must contain information which supports the medical appropriateness of the item ordered.

(b) Documentation of MSRP must be kept on file for bathtub wall rails.

(3) Procedure Codes — Table 0580. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0600
Toilet Supplies

(1) Procedure Codes — Table 0600-1. [Table not included. See ED. NOTE.]

(2) Commodes:

(a) Indications and Coverage: For use when the client is physically incapable of utilizing regular toilet facilities. This would occur when:

(A) The client is confined to a single room; or

(B) The client is confined to one level of the home environment and there is no toilet on that level; or

(C) The client is confined to the home and there are no toilet facilities in the home.

(b) Documentation: An order for the commode which is signed by the prescribing practitioner must be kept on file by the DME supplier. The practitioner's records must contain information which supports the medical appropriateness of the item ordered;

(c) Procedure Code — Table 0600-2.

(3) Extra-Wide/Heavy Duty Commodes:

(a) Indications and Coverage:

(A) A client who weighs 300 pounds or more;

(B) For use when the client is physically incapable of utilizing regular toilet facilities. This would occur when:

(i) The client is confined to a single room; or

(ii) The client is confined to one level of the home environment and there is no toilet on that level; or

(iii) The client is confined to the home and there are no toilet facilities in the home.

(b) Documentation: Documentation of medical appropriateness must be submitted for prior authorization and kept on file by the DME provider, and must include height and weight;

(c) Procedure Code — E0168, Commode chair, extra wide and/or heavy duty, stationary or mobile, with or without arms, any type, each — width of 23 inches or more and/or capable of supporting clients who weigh 300 pounds or more — PA required — OMAP will purchase, rent, repair — Item considered purchased after 16 months of rent.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0620
Miscellaneous Supplies

Table 0620. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 32-1999, f. & cert. ef. 10-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0625
Surgical Dressing

Procedure Codes — Table 0625. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0630
Incontinent Supplies

(1) For this rule, as determined by Center for Medicare/Medicaid Services (CMS), "adult diapers" stands for adult briefs, and "child and adult briefs" stands for protective underwear.

(2) Miscellaneous:

(a) A4335, Incontinent supply; miscellaneous — Prior authorization (PA) required — OMAP will purchase — Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult diapers and inserts) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA. Includes, but not limited to:

(A) Disposable belted undergarments;

(B) Disposable slip-on (TM) undergarments.

(b) A4554, Disposable underpads, all sizes (e.g., Chuxs) each — PA required — OMAP will purchase:

(A) Limited to 100 per month unless documentation supporting increased medically appropriate usage is sent to OMAP Medical Unit for review and prior authorization;

(B) Limited to use for fecal incontinence, urinary incontinence and draining wounds;

(C) Not covered for clients under 3 for incontinence (fecal or urinary).

(c) A4927, Gloves, non-sterile, per100 — OMAP will purchase:

(A) Limited to 200 pair per month;

(B) Not covered for feeding, washing or doing laundry.

(d) A4535, Disposable liner/shield for incontinence, each — PA required — OMAP will purchase:

(A) Incontinence supplies not covered for clients under three years of age;

(B) Includes but not limited to, pant liner, insert, insert pad, shield, pad, guard, booster pad, or beltless undergarment;

(C) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(3) Disposable Child Supplies

(a) A4529, Child-sized incontinence product, diaper, small/medium size, each — PA required — OMAP will purchase — not covered for children under three;

(b) A4530, Child-sized incontinence product, diaper, large size, each — PA required — OMAP will purchase — not covered for children under three;

(c) A4531, Child-sized incontinence product, brief, small/medium size, each — PA required — OMAP will purchase:

(A) Not covered for children under three;

(B) Not covered for nocturnal enuresis.

(d) A4532, Child-sized incontinence product, brief, large size, each — PA required — OMAP will purchase:

(A) Not covered for children under three;

(B) Not covered for nocturnal enuresis.

(4) Disposable Adult Supplies:

(a) A4533, Youth-sized incontinent product, diaper, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(b) A4521, Adult-sized incontinence product, diaper, small size, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(c) A4522, Adult-sized incontinence product, diaper, medium size, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(d) A4523, Adult-sized incontinence product, diaper, large size, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(e) A4524, Adult-sized incontinence product, diaper, extra large size, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(5) Disposable Protective Underwear:

(a) Indications and Coverages — Covered if meets the following:

(A) Fecal or urinary incontinency; and

(B) Documented bowel and bladder retraining program; and

(C) Partial ability to be continent; and

(D) Documented treatment failure with other, less-expensive products, and either:

(i) Autism with tactile aversion; or

(ii) Other medically appropriate reasons.

(b) Documentation — Documentation to be submitted with request for PA:

(A) Bowel and bladder retraining program (this can be in the form of a care plan);

(B) Medical reason for incontinency;

(C) Medical proof that other products have been tried and failed;

(D) Documented progress of achieving or maintaining goals of bowel and bladder retraining program.

(c) Procedure Codes:

(A) A4534, Youth-sized incontinence product, briefs, each — PA required — OMAP will purchase:

(i) Limited to 100 per month;

(ii) Not covered for clients under age three;

(iii) Not covered for nocturnal enuresis.

(B) A4525, Adult-sized incontinence product, brief, small size, each — PA required — OMAP will purchase:

(i) Limited to 100 per month;

(ii) Not covered for clients under age three;

(iii) Not covered for nocturnal enuresis.

(C) A4526, Adult-sized incontinence product, brief, medium size, each — PA required — OMAP will purchase:

(i) Limited to 100 per month;

(ii) Not covered for clients under age three;

(iii) Not covered for nocturnal enuresis.

(D) A4527, Adult-sized incontinence product, brief, large size, each — PA required — OMAP will purchase:

(i) Limited to 100 per month;

(ii) Not covered for clients under age three;

(iii) Not covered for nocturnal enuresis.

(E) A4528, Adult-sized incontinence product, brief, extra large size, each — PA required — OMAP will purchase:

(i) Limited to 100 per month;

(ii) Not covered for clients under age three;

(iii) Not covered for nocturnal enuresis.

(6) Washable Incontinent Supplies:

(a) A4536, Protective underwear, washable, any size, each — PA required — OMAP will purchase — Not covered for children under three years of age;

(b) A4537, Underpad, reusable, washable, any size, each — PA required — OMAP will purchase:

(A) Not covered for children under three years of age;

(B) Limited to 8 per 12 months.

(7) Diaper Service:

(a) A4538, Diaper service, reusable diaper, each diaper — PA required — OMAP will rent;

(b) Coverage limitations:

(A) Not covered at the same time as disposable products;

(B) Not covered for children under three years of age;

(C) Limited to 360 units per month, based on medical appropriateness, of any combination of products (i.e., adult briefs and liners) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 64-2001, f. 12-28-01, cert.ef. 1-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0660

Orthotics and Prosthetics

(1) Indications and Coverage:

(a) All of the orthotic and prosthetic "L" codes and any temporary "S" or "K" codes have been removed from the rules except for rule 410-122-0470 Supports and Stockings, 410-122-0255 External Breast Prosthesis, and 410-122-0680 Facial Prosthesis;

(b) Use the current HCPCS Level II Guide for current codes and descriptions;

(c) For adults, follow Medicare current guidelines for determining coverage;

(d) For children, the prescribing practitioner must determine and document medical appropriateness.

(2) Prior Authorization will be required to be obtained from the OMAP Medical Unit, the Medically Fragile Children's Unit, or CMS Health Integrated case managers for the following codes:

(a) L1499;

(b) L2999;

(c) L3649;

(d) L3999;

(e) L5999;

(f) L7499;

(g) L8499;

(h) L9900.

(3) Codes Not Covered — Table 0660. [Table not included. See ED. NOTE.]

(4) Reimbursement:

(a) The hospital is responsible for reimbursing the provider for orthotics and prosthetics provided on an inpatient basis;

(b) Evaluations, office visits, fittings and materials are included in the service provided;

(c) Evaluations will only be reimbursed as a separate service when the provider travels to a client's residence to evaluate the client's need;

(d) All covered orthotic and prosthetic codes are also covered if client resides in a nursing facility except L1500, L1510, and L1520.

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

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0678
Dynamic Adjustable Extension/Flexion Device

Procedure Codes — Table 0678. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0680
Facial Prostheses

(1) Indications and Coverage:

(a) Covered when there is loss or absence of facial tissue due to disease, trauma, surgery, or a congenital defect;

(b) Adhesives, adhesive remover and tape used in conjunction with a facial prosthesis are covered. Other skin care products related to the prosthesis, including but not limited to cosmetics, skin cream, cleansers, etc., are not covered;

(c) The following services and items are included in the allowance for a facial prosthesis:

(A) Evaluation of the client;

(B) Pre-operative planning;

(C) Cost of materials;

(D) Labor involved in the fabrication and fitting of the prosthesis;

(E) Modifications to the prosthesis made at the time of delivery of the prosthesis or within 90 days thereafter;

(F) Repair due to normal wear or tear within 90 days of delivery;

(G) Follow-up visits within 90 days of delivery of the prosthesis.

(d) Modifications to a prosthesis that occur more than 90 days after delivery of the prosthesis and that are required because of a change in the client's condition are covered;

(e) Repairs are covered when there has been accidental damage or extensive wear to the prosthesis that can be repaired. If the expense for repairs exceeds the estimated expense for a replacement prosthesis, no payments can be made for the amount of the excess;

(f) Follow-up visits which occur more than 90 days after delivery and which do not involve modification or repair of the prosthesis are non-covered services;

(g) Replacement of a facial prosthesis is covered in cases of loss or irreparable damage or wear or when required because of a change in the client's condition that cannot be accommodated by modification of the existing prosthesis;

(h) When a prosthesis is needed for adjacent facial regions, a single code must be used to bill for the item, whenever possible. For example, if a defect involves the nose and orbit, this should be billed using the hemifacial prosthesis code and not separate codes for the orbit and nose. This would apply even if the prosthesis is fabricated in two separate parts.

(2) Documentation: The following must be submitted for prior authorization (PA):

(a) An order for the initial prosthesis and/or related supplies which is signed and dated by the ordering prescribing practitioner must be kept on file by the prosthetist/supplier and submitted with request for PA;

(b) A separate prescribing practitioner order is not required for subsequent modifications, repairs or replacement of a facial prosthesis;

(c) A new prescribing practitioner order is required when different supplies are ordered;

(d) A photograph of the prosthesis and a photograph of the client without the prosthesis must be retained in the supplier's record and must be submitted with the PA request;

(e) When code L8048 is used for a miscellaneous prosthesis or prosthetic component, the authorization request must be accompanied by a clear description and a drawing/copy of photograph of the item provided and the medical appropriateness;

(f) Requests for replacement, repair or modification of a facial prosthesis must include an explanation of the reason for the service;

(g) When replacement involves a new impression/moulage rather than use of a previous master model, the reason for the new impression/moulage must be clearly documented in the authorization request.

(3) Procedure Codes — Table 0680. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 4-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

410-122-0720
Pediatric Wheelchairs

(1) Indications and Coverage:

(a) The purchase, rental, or modification of a pediatric wheelchair is covered when all of the following criteria are met:

(A) The client's condition is such that without the use of a wheelchair the client would be bed-confined or confined to a non-mobile chair; and

(B) The client is not functionally ambulatory and the wheelchair is necessary to function within the home.

(b) The Office of Medical Assistance Programs (OMAP) will not pay for backup chairs. Only one wheelchair will be maintained, rented, repaired, purchased or modified for each client to meet the medical appropriateness; however, if a client's current wheelchair no longer meets the medical appropriateness or repair to the wheelchair exceeds replacement cost, a new wheelchair may be authorized. If a client has a wheelchair that meets his/her medical needs regardless of who has obtained it, OMAP will not provide another chair;

(c) One month's rental of a wheelchair is covered if a client-owned wheelchair is being repaired;

(d) Living quarters must be able to accommodate requested wheelchair. OMAP will not be responsible for adapting the living quarters to accommodate the wheelchair;

(e) Backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if wheelchair meets the same need, custom colors, wheelchair gloves, and upgrades to allow performance of leisure or recreational activities are not covered;

(f) Do not use E1399 for manual wheelchair base;

(g) Reimbursement for wheelchair codes includes all labor charges involved in the assembly and delivery of the wheelchair and all adjustments for three months after date the client takes delivery. Reimbursement also includes emergency services, education and on-going assistance with use of the wheelchair for three months after the client takes delivery.

(2) Documentation:

(a) Documentation of medical appropriateness which has been reviewed and signed by the treating prescribing practitioner (for example, CMN) must be kept on file by the DME provider;

(b) Submit list of all DME available or being used to meet the client's needs when requesting prior authorization (PA);

(c) Submit Wheelchair and Seating Prescription and Justification form (OMAP 3125) or reasonable facsimile, with recommendations for most appropriate equipment. This must be submitted by physical therapist, occupational therapist, prescribing practitioner, or registered nurse, when requesting a PA. The evaluation must include client's functional ambulation status in their customary environment.

(3) Procedure Codes:

(a) E1011, Modification to pediatric wheelchair, width adjustment package (not to be dispensed with initial chair) — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(b) E1012, Integrated seating system, planar, for pediatric wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(c) E1013, Integrated seating system, contoured, for pediatric wheelchair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(d) E1014, Reclining back, addition to pediatric wheechair — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(e) E1025, Lateral thoracic support, non-contoured, for pediatric wheelchair, each (includes hardware) — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent.

Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(f) E1026, Lateral thoracic support, contoured, for pediatric wheelchair, each (includes hardware) — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;(g) E1027, Lateral/anterior support, for pediatric wheelchair, each includes hardware) — PA required — OMAP will purchase, rent and repair — Item considered purchased after 16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair.

(4) Pediatric Tilt-in Space:

(a) Indications and coverage for tilt-in space: clients must meet the criteria for a wheelchair (manual or powered), plus the following:

(A) Dependent for transfers; and

(B) Spends a minimum of four hours a day continuously in a wheelchair; and

(C) Plan of care must address the need to change position at frequent intervals and not be left in the tilt position most of the time; and

(D) One of the following:

(i) High risk of skin breakdown;

(ii) Poor postural control, especially of the head and trunk;

(iii) Hyper/hypotonia;

(iv) Requires frequent change of position with poor upright sitting.

(b) Documentation — must support the above criteria.

(c) Procedure Codes:

(A) E1231, Wheelchair pediatric size, tilt-in space, rigid, adjustable, with seating system — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(B) E1232, Wheelchair pediatric size, tilt-in space, folding, adjustable, with seating system — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(C) E1233, Wheelchair pediatric size, tilt-in space, rigid, adjustable, without seating system — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(D) E1234 Wheelchair pediatric size, tilt-in space, folding, adjustable, without seating system —- PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(E) E1235, Wheelchair pediatric size, rigid, adjustable, with seating system —- PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(F) E1236, Wheelchair pediatric size, folding, adjustable, with seating system —- PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(G) E1237, Wheelchair pediatric size, rigid, adjustable, without seating system —- PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair;

(H) E1238, Wheelchair pediatric size, folding, adjustable, without seating system — PA required — OMAP will purchase, rent and repair — Item considered purchased after16 months of rent. Also covered for payment when client is a resident of a nursing facility if supplied for client-owned chair.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03

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Adm. Order No.: OMAP 22-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 12-1-02, 1-1-03
Rules Amended: 410-125-0080, 410-129-0200, 410-129-0240, 410-129-0260, 410-132-0180, 410-136-0300, 410-148-0020, 410-148-0040, 410-148-0060, 410-148-0100, 410-148-0260, 410-148-0280, 410-148-0300, 410-150-0040, 410-150-0080, 410-150-0100, 410-150-0120, 410-150-0160, 410-150-0200, 410-150-0220, 410-150-0260, 410-150-0280
Subject: Administrative rules govern Office of Medical Assistance Program (OMAP) payments for services provided to clients. Rule 410-125-0080 is revised to clarify language regarding prior authorization requirements for in-state or contiguous hospital transfers. Rule 410-136-0300 is revised to clarify retroactive authorization in both brokerage contract areas and non-brokerage contract areas. For all other rules listed above: HIPAA regulations require the use of standard billing codes. Rules, relative to HIPAA regulations, are revised to delete references to all local or OMAP unique billing codes and reflect the 2003 standard HCPCS codes instead.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0080
Inpatient Services

(1) Elective (Not Urgent or Emergent) Admission:

(a) Fully Capitated Health Plan (FCHP) and Mental Health Organization (MHO) Clients — contact the client's MHO or FCHP (phone number is on the client's Medical Care Identification). The health plan may have different prior authorization requirements than OMAP;

(b) Medicare Clients — OMAP does not require prior authorization for inpatient services provided to clients with Medicare Part A or B coverage;

(c) All other OMAP clients:

(A) Hospital admissions for any of the medical and surgical procedures shown in Table 1 require prior authorization, unless they are urgent or emergent;

(B) Contact Oregon Medical Professional Review Organization (OMPRO) (unless indicated otherwise in Table1) for prior authorization.

(2) Transplant Services:

(a) Complete rules for transplant services are in the Transplant Services provider guide;

(b) Clients are eligible for transplants covered by the Health Services Commission's Prioritized List of Health Services. See the Transplant Services provider guide for criteria. For clients enrolled in an FCHP, contact the plan for authorization. Clients not enrolled in an FCHP, contact the OMAP Medical Director's office.

(3) Out-of-State, Non-Contiguous Hospitals:

(a) All non-emergent/non-urgent services provided by hospitals more than 75 miles from the Oregon border require prior authorization;

(b) Contact — The OMAP Medical Director's office for authorization for clients not enrolled in a prepaid health plan. For clients enrolled in a prepaid health plan — contact the plan.

(4) Out-of-State, Contiguous Hospitals: Services provided by contiguous-area hospitals, less than 75 miles from the Oregon border, are prior authorized following the same rules and procedures as instate providers (see Elective Admission).

(5) Transfers to Another Hospital:

(a) Transfers for the purpose of providing a service listed in Table 1 of this rule, e.g., inpatient physical rehabilitation care, require prior authorization — contact OMPRO;

(b) Transfers to a skilled nursing facility, intermediate care facility or swing bed — contact Seniors and People with Disabilities (SPD). SPD reimburses nursing facilities and swing beds through contracts with the facilities. For FCHP clients — transfers require authorization and payment (for first 20 days) from the plan;

(c) Transfers to the Same or Lesser Level of Inpatient Care — OMAP will cover transfers, including back transfers, which are primarily for the purpose of locating the patient closer to home and family, when the transfer is expected to result in significant social/psychological benefit to the patient. The assessment of significant benefit shall be based on the amount of continued care the patient is expected to need (at least seven days) and the extent to which the transfer locates the patient closer to familial support. Transfers not meeting these guidelines may be denied on the basis of post-payment review;

(d) Exceptions:

(A) Emergency transfers do not require prior authorization;

(B) In state or contiguous non-emergency transfers for the purpose of providing care which is unavailable in the transferring hospital do not

require prior authorization, unless the planned service is listed in Table 1 of this rule;

(C) All non-urgent transfers to out-of-state non-contiguous hospitals require prior authorization.

(6) Dental Procedures Provided in a Hospital Setting:

(a) OMAP will reimburse for hospital services when covered dental services are provided in a hospital setting for clients not enrolled in a FCHP, when a hospital setting is medically appropriate. For prior authorization, contact the OMAP Dental Program Coordinator;

(b) For clients enrolled in an FCHP, contact the client's FCHP;

(c) Emergency dental services do not require prior authorization. Table 0080-1. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 30-1982, f. 4-26-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 11-1983, f. 3-8-83, ef. 4-1-83; AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 22-1985, f. 4-23-85, ef. 6-1-85; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 45-1989, f. & cert. ef. 8-21-89; HR 9-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 21-1990, f. & cert. ef. 7-9-90; Renumbered from 461-015-0190; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 42-1991, f. & cert. ef. 10-1-91; HR 39-1992, f. 12-31-92, cert. ef. 1-1-93; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 7-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 9-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-129-0200

Speech-Language Pathology Procedure Codes

(1) Speech Therapy Services. Table 200-1. [Table not included. See ED. NOTE.]

(2) Other Speech Services. Table 200-2. [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; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; OMAP 6-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 20-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 10-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-129-0240

Audiologist and Hearing Aid Procedure Codes

(1) Audiologist and Hearing Aid Procedure Codes. Table 0240-1. [Table not included. See ED. NOTE.]

(2) Special Otorhinolaryngologic Services codes: These codes apply to services for cochlear implants. These services include medical diagnosis evaluation by the otology physician. Table 0240-2. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced 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 10-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

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 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.e f. 10-1-01; OMAP 10-2002, f. & cert. ef. 4-1-02; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-132-0180

Procedure Codes

(1) All private duty nursing services require prior authorization. (See definitions section of the guide).

(2) Private Duty Nursing Visit:

(a) T1030 — Nursing care, in the home, by registered nurse, per diem;

(b) T1031 — Nursing care, in the home, by licensed practical nurse, per diem

(3) Private Duty Nursing Shift Care:

(a) S9123 — Nursing care, in the home, by registered nurse, per hour — 1 unit equals one hour;

(b) S9124 — Nursing care, in the home, by licensed practical nurse, per hour — 1 unit equals one hour.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1991, f. 1-28-91, cert. ef. 3-1-91; HR 6-1997, f. & cert. ef. 2-19-97; OMAP 16-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 54-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-136-0300

Authorization

(1) For the purposes of the Administrative Rules governing provision of Medical Transportation Services, authorization is defined to be authorization in advance of the service being accessed or provided.

(2) Retroactive authorization for medical transportation will be made only under the following circumstances:

(a) "After hours" transports to obtain urgent medical care. Medical appropriateness will be determined by branch or Office of Medical Assistance Programs (OMAP) review;

(b) Secured transports provided to clients in crisis on weekends, holidays or after normal branch office hours. Medical appropriateness for secured transports will be determined by branch/OMAP review to ensure authorization is given and/or reimbursement made only for those transports that meet criteria set forth in 410-136-0240.

(3) Authorization of payment is required for the following:

(a) Non-emergency ambulance;

(b) Non-emergency air ambulance;

(c) Stretcher car (including stretcher car services provided by an ambulance);

(d) Wheelchair car/van;

(e) Taxi;

(f) Secured transport (including those arranged for and/or provided outside of normal branch office hours);

(g) Client reimbursed transportation (including medically appropriate meals, lodging, attendant);

(h) Fixed route public bus systems;

(i) All special/bid transports.

(4) Authorization will be made for the services identified above when:

(a) The transport is medically appropriate considering the medical condition of the client;

(b) The destination is to a medical service covered under the Medical Assistance program;

(c) The client medical transportation eligibility screening indicates the client has no resources or that no alternative resource is available to provide appropriate transportation without cost or at a lesser cost to OMAP;

(d) The transport is the least expensive medically appropriate mode of conveyance available considering the medical condition of the client.

(5) Authorization must be obtained in advance of service provision. Branch telephone numbers can be found in the OMAP General Rules. The client's branch office is printed on the Medical Care Identification. A provider authorized to provide transportation will receive a completed Medical Transportation Order (OMAP 405T or OMAP 406). All transportation orders, including any equivalent, must contain the following:

(a) Provider name or number;

(b) Client name and ID number;

(c) Pickup address;

(d) Destination name and address;

(e) Second (or more) destination name and address;

(f) Appointment date and time;

(g) Trip information, e.g., special client requirements;

(h) Mode of transportation, e.g., taxi;

(i) 1 way, round trip, 3 way;

(j) Current date;

(k) Branch number;

(l) Worker/clerk ID;

(m) Dollar amount authorized (if special/secured transport).

(6) If the Medical Transportation Order indicates 'on-going' transports have been authorized, the following information is also required:

(a) Begin and end dates;

(b) Appointment time(s);

(c) Days of week.

(7) Additional information identifying any special needs of the individual client should also be indicated on the order in the "Comments" section. If the order is for a secured transport the name and telephone number of the medical professional requesting the transport, as well as information regarding the nature of the crisis is required.

(8) Authorization for non-emergency services after service provided:

(a) Occasionally a client may contact the provider directly "after hours" (i.e., when the branch office is closed) and order an urgent care medical transport. Only in this case, is it appropriate for the provider to initiate the Medical Transportation Order. All required information (except the branch number, worker/clerk ID and dollars authorized) must be completed by the provider before submitting the order to the branch for authorization. The provider must also indicate on the order the time and day of week the client called. The partially completed authorization order must be received at the appropriate branch office within 30 calendar days following provision of the service;

(b) After branch review (and if approved) the branch will complete the branch number, dollars authorized (if special or secured transport) worker/clerk ID and current date, and return the order to the provider within 30 calendar days. The provider may not bill OMAP until the final approved order is received;

(c) A provider requesting branch authorization for "after hours" rides may be at risk of non-payment if the branch determines the ride was not for the purpose of obtaining urgent medical services covered under the Medical Assistance Programs.

(9) For client reimbursed transportation and fixed route public bus systems, the client must contact the branch office in advance of the travel. Once the transportation has been authorized, money for bus tickets/passes or the actual bus tickets/passes will be disbursed at the branch level. If a client is requesting mileage reimbursement, the branch is to provide assistance using the current guidelines and methodologies as indicated in the DHS Worker Guide.

(10) Authorization will not be made nor reimbursement provided:

(a) To return a client from any foreign country to any location within the United States even though the medical care needed by the client is not available in the foreign country;

(b) To return a client to Oregon from another state or provide mileage, meals or lodging to the client, unless the client was in the other state for the purpose of obtaining services or treatment approved by OMAP or approved by the client's Prepaid Health Plan with subsequent OMAP approval for the travel;

(c) To or from court ordered services.

(11) Authorization does not guarantee reimbursement:

(a) Check eligibility on the date of service by calling Automated Information System (AIS) or requesting a copy of the client's Medical Care Identification;

(b) Ensure the service to be provided is currently a medical service covered under the Medical Assistance program;

(c) Ensure the claim is for the actual services and/or number of services provided.

(d) Per OAR 410-136-0280, for all claims submitted to OMAP, the provider record must contain completed documentation pertinent to the service provided.

(12) OMAP may not be billed for services and/or dollars in excess of the number of services and/or dollars authorized.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 7-1982, f. 1-22-82, ef. 2-1-82; AFS 21-1982(Temp), f. & ef. 3-23-82; AFS 92-1982, f. & ef. 10-8-82; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 012-1993, f. 4-30-93, cert. ef. 5-1-93; Renumbered from 461-020-0021; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 9-1995, f. 3-31-95, cert. ef. 4-1-95; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; HR 10-1997, f. 3-28-97, cert. ef. 4-1-97; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 55-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0020
Home Enteral/Parenteral Nutrition and IV Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription. The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-9-CM diagnosis codes, number of units and length of time needed. The prescription or order must be retained on file by the provider of service for the period of time specified in OMAP General Rules. A new prescription is required once a year for ongoing services. Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump gravity or delivery.

(2) All claims for Enteral/Parenteral Nutrition and IV services require a valid ICD-9-CM diagnosis code. It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) OMAP requires one nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan. This nursing service visit for assessment purposes does not require payment authorization and is not required when the only service provided is oral nutritional supplementation. Nursing service visits provided in the home will be reimbursed by OMAP only when performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(4) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider guide will be made only when provided in the client's place of

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0020
Home Enteral/Parenteral Nutrition and IV Services

(1) The Office of Medical Assistance Programs (OMAP) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription. The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-9-CM diagnosis codes, number of units and length of time needed. The prescription or order must be retained on file by the provider of service for the period of time specified in OMAP General Rules. A new prescription is required once a year for ongoing services. Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump gravity or delivery.

(2) All claims for Enteral/Parenteral Nutrition and IV services require a valid ICD-9-CM diagnosis code. It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) OMAP requires one nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan. This nursing service visit for assessment purposes does not require payment authorization and is not required when the only service provided is oral nutritional supplementation. Nursing service visits provided in the home will be reimbursed by OMAP only when performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(4) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider guide will be made only when provided in the client's place of

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0040
Requirements for Home Enteral/Parenteral Nutrition and IV Services

(1) Home Enteral/Parenteral Nutrition and IV Services:

(a) Home enteral/parenteral and IV nutrition services must include training and/or education of client or support person on nutritional supplement and /or equipment operation;

(b) When enteral/parenteral and IV nutrition services are initiated in a hospital setting, reimbursement for training is included in the hospital reimbursement and will not be made separately;

(c) Reimbursement for enteral/parenteral and IV services training when done in the home is included in the payment for the nursing visit(s);

(d) Per diem reimbursement includes: administrative service, pharmacy professional and cognitive services, including drug admixture, patient assessment, clinical monitoring, and care coordination, and all necessary infusion related supplies andequipment. Enteral/parenteral formula, drugs and nursing visits are not included in per diem rates and must be billed separately.

(2) Home enteral nutrition:

(a) Home enteral nutrition is considered medically appropriate to maintain body mass and prevent nutritional depletion, which occurs with some illnesses or pathological conditions;

(b) Home enteral therapy may be administered orally or by enteral tube feeding, i.e., nasogastric, jejunostomy or gastrostomy delivery systems.

(3) Home parenteral nutrition:

(a) Is considered medically appropriate for treatment of gastrointestinal dysfunction such as severe short bowel syndrome, chronic radiation enteritis, severe Crohn's disease, or other conditions where adequate nutrition by the oral and enteral routes is not possible:

(b) Initiation of home parenteral nutrition services must include client or support person education on catheter care, infusion technique, solution preparation, sterilization technique, and equipment operation;

(c) Parenteral nutrition is appropriate only when oral or enteral feeding is inadequate or contraindicated.

(4) Home intravenous (IV) services:

(a) Home intravenous (IV) services are covered by the Office of Medical Assistance Programs (OMAP) for the administration of antibiotics, analgesics, chemotherapy, hydrational fluids or other intravenous medications in a client's residence or nursing home.

(b) In addition, the provision of all goods and services needed for maintaining venous or arterial access and required monitoring is covered.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 9-1992, f. & cert. ef. 4-1-92; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 34-1993(Temp), f. & cert. ef. 12-1-93; HR 11-1994, f. 2-25-94, cert. ef. 2-27-94; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0660; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0060
Authorization

(1) Authorization of payment is required for the following items or services:

(a) All enteral/parenteral or IV infusion pumps, the provider is required to submit documentation with each request that other (non-pump) methods of delivery do not meet the client's medical need;

(b) All nursing service visits, except the assessment nursing visit, associated with home enteral/parenteral nutrition or IV services;

(c) All oral nutritional supplements;

(d) All drugs/goods identified as requiring payment authorization in the Pharmaceutical Services Guide. Contact First Health Services for those items that require prior authorization.

(2) Approval for payment for the above home enteral/parenteral nutrition and/or IV services entities will be made when considered to be "medically appropriate."

(3) Authorization of payment is required for those services that require authorization even though the client has other insurance that may cover the service. Authorization of payment is not required for Medicare covered services.

(4) For services requiring authorization, providers must contact the Office of Medical Assistance Programs (OMAP) or the Medically Fragile Children's Unit for authorization within five working days following initiation of services. Authorization will be given based on medical appropriateness, appropriateness of level of care given, cost and/or effectiveness.

(5) How to Obtain Payment Authorization:

(a) Services for clients identified as Medically Fragile Children's Unit clients will be authorized by the Department of Human Service's (DHS) Medically Fragile Children's Unit;

(b) Request oral nutrition supplements from First Health Services, Managed Access Program;

(c) All other authorization may be obtained by contacting, either by phone or in writing, the OMAP — Medical Unit;

(d) When authorization has been made, the requesting provider will receive an OMAP 1072C (Notice of Prior Authorization) or an OMAP 1072 (Notice of Prior Authorization of Payment for Medical Services). The notice will contain the nine-digit payment authorization number. This nine-digit number must be entered in Field 23 of the HCFA-1500, Field 23B of the OMAP 505, or in Field 14 of the OMAP 502 or OMAP 502N;

(e) Payment authorization does not guarantee reimbursement;

(f) Remember:

(A) Always check eligibility on the date of service and the client's benefit package by calling AIS Plus or requesting a copy of the client's OMAP Medical Care Identification. This is especially important when the client becomes eligible, is subsequently enrolled in managed care, or has changed benefit packages after the authorization has been established;

(B) For services provided to clients enrolled in a Prepaid Health Plan, contact the Plan for authorization information prior to service provision;

(C) Ensure the service to be provided is currently a medical service covered under the client's benefit package;

(D) Ensure the claim is for the actual service(s) and/or number of services provided even though the authorization may be for a higher number of units or dollars;

(E) Services and/or dollars billed in excess of the number of units or dollars authorized will not be reimbursed.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 26-1984, f. & ef. 6-19-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 52-1986, f. & ef. 7-2-86; AFS 15-1987, f. 3-31-87, ef. 4-1-87; AFS 4-1989, f. 1-31-89, cert. ef. 2-1-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0090; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0220; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0680; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

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/:

(a) Enteral Formula;

(b) Oral Nutritional Supplements;

(c) Parenteral Nutrition Solutions;

(3) Reimbursement for services will be based on the lesser of the amount billed, the Office of Medical Assistance Programs' (OMAP) maximum allowable rate. When the service is covered by Medicare, reimbursement will be based on the lesser of the amount billed, Medicare's allowed amount, or the OMAP's maximum allowable rate.

(4) Reimbursement for supplies that require authorization or services/supplies that are listed as Not Otherwise Classified (NOC) or By Report (BR) must be billed to OMAP at the providers' Acquisition Cost, and will be reimbursed at such rate.

(a) 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;

(b) Per diem, as it relates to reimbursement, represents each day that a given patient is provided access to a prescribed therapy. This definition is valid for per diem therapies of up to and including every 72 hours.

(c) Per diem reimbursement includes, but is not limited to:

(A) Professional Pharmacy services:

(i) Initial and ongoing assessment/clinical monitoring;

(ii) Coordination with medical professionals, family and other caregivers;

(iii) Sterile procedures, including IV admixtures, clean room upkeep and all biomedical procedures necessary for a safe environment;

(iv) Compounding of medication/medication set-up.

(B) Infusion therapy related supplies:

(i) Durable, reusable or elastomeric disposable infusion pumps;

(ii) All infusion or other administration devices;

(iii) Short peripheral vascular access devices;

(iv) Needles, gauze, sterile tubing, catheters, dressing kits, and other supplies necessary for the safe and effective administration of infusion therapy.

(C) Comprehensive, 24-hour per day, seven days per week delivery and pickup services (includes mileage).

(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) Tocolytic pumps for pre-term labor management;

(f) 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; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0260
Home Enteral Nutrition

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2) Enteral Nutrition Formula. Use B4150 through B4156 when billing for tube fed nutritional formulae. If the product dispensed is not shown in HCPCS description, select a category equivalent when billing the Office of Medical Assistance Programs (OMAP).

(3) Oral Nutritional Supplements:

(a) Prior authorization is required on all oral supplements;

(b) Oral nutritional supplements can be billed through the on-line Point of Sale pharmacy system or on Prescription Drug Invoice (OMAP 502). Use the product's NDC when billing;

(c) If the product dispensed is not shown in one of the listed categories, select a category which is equivalent when billing OMAP;

(d) Oral nutritional supplements may be approved when the following criteria has been met:

(A) Clients age 6 and above:

(i) Must have a nutritional deficiency identified by one of the following:

(I) Recent low serum protein levels; or

(II) Recent Registered Dietician assessment shows sufficient caloric/protein intake is not obtainable through regular, liquefied or pureed foods.

(ii) And have a recent unplanned weight loss of at least 10%, plus one of the following:

(I) Increased metabolic need resulting from severe trauma; or

(II) Malabsorption difficulties (e.g., short-gut syndrome, fistula, cystic fibrosis, renal dialysis; or

(III) Ongoing cancer treatment, advanced AIDS or pulmonary insufficiency.

(iii) Weight loss criteria may be waived if body weight is being maintained by supplements due to patient's medical condition (e.g., renal failure, AIDS)

(B) Clients under age 6:

(i) Diagnosis of 'failure to thrive';

(ii) Must meet same criteria as above, with the exception of % of weight loss.

(4) Enteral Nutrition Equipment:

(a) All repair and maintenance is subject to rule 410-1480-0080;

(b) Procedure Codes:

(A) S5036, Repair of infusion device (each 15 minutes = 1 unit) — PA;

(B) B9998, Enteral Nutrition Infusion Pump Replacement parts will be reimbursed at provider's acquisition cost (including shipping and handling) — PA/BR;

(C) B9000, Enteral Nutrition Infusion Pump, without alarm — rental (1 month = 1 unit) — PA;

(D) B9002, Enteral Nutrition Infusion Pump, with alarm — rental (1 month = 1 unit) — PA;

(E) E0776, IV Pole — Purchase;

(F) E0776, modifier RR, IV Pole — Rental (1 day = 1 unit);

(G) S9342, Enteral Nutrition via pump (1 day = 1 unit) — PA.

(5) Home Infusion Therapy:

(a) S9325, Home infusion, pain management (do not use with code S9326, S9327 or S9328) — PA

(b) S9326, Home infusion, continuous pain management — PA;

(c) S9327, Home infusion, intermittent pain management — PA;

(d) S9328, Home infusion, implanted pump pain management — PA.

(6) Not Otherwise Classified (NOC):

(a) B9998, NOC For Enteral Supplies — PA/BR;

(b) S9379, Home infusion therapy, NOC — PA/BR.

[ED. NOTE: Tables referenced in this rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0840; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0280
Home Parenteral Nutrition

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2)Standard Total parenteral Nutrition (TPN):

(a) Bill using HCPCS codes S9365 through S9368;

(b) Home infusion for stand TPN includes the following drugs and products in the per diem rate:

(A) Non-specialty amino acids (e.g., aminosyn, freeamine, travasol)

(B) Concentrated dextrose (e.g., D10, D20, D40, D50, D60, D70)

(C) Sterile water;

(D) Electrolytes (e.g., CaC12, KCL, KPO4, MgSo4, NaAc, NaCl, NaPO4);

(E) Standard muti-trace elements (e.g., MTE4, MTE5, MTE7);

(F) Standard mutivitamin solutions (e.g., MVI-13).

(c) The following items are not included in the per diem and should be billed separately:

(A) Specialty amino acids for renal failure, hepatic failure or for high stress conditions (e.g., aminess, aminosyn-RF, nephramine, RenAmin, HepatAmine, Aminosyn-HBC, BranchAmin, FreeAmine HBC, Trophamine);

(B) Specialty amino acids with concentrations of 15% and above when medically necessary for fluid restricted patients (e.g., Aminosyn 15%, Novamine 15%, Clinisol 15%);

(C) Lipids;

(D) Added trace elements, vitamins not from standard multitrace element or multivitamin solution;

(E) Products serving non-nutritional purposes (e.g., heparin, insulin, iron dextran).

(2) Parenteral Nutrition Solutions:

(a) Bill using HCPCS codes B4164 through B5200. See HCPCS book for description.

(b) Note: Reimbursement for compounding, admixture and administrative fees is included in the unit price.

(3) Parenteral Supply Kits/Supplies — Procedure Codes — Table 0280-1 is not an all-inclusive list of supplies, but is included for illustration purposes only. [Table not included. See ED. NOTE.]

(4) Parenteral Nutrition Equipment — Procedure Codes — Table 0280-2. [Table not included. See ED. NOTE.]

(5) Not Otherwise Classified (NOC) — B9999, NOC For Parenteral Supplies — PA/BR.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0860; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-148-0300
Other Home IV and Enteral/ Parenteral Administration Services

(1) Codes that have "PA" indicated require prior authorization. Codes with "BR" indicated are covered by report.

(2) Catheter Care Kits. All catheter care kit allowable amounts are determined on a per diem basis (1 day = 1 unit):

(a) When performed as a stand alone therapy, or during days not covered under per diem by another therapy, bill using catheter care codes S5497 through S5521;

(b) The following supplies for non-routine catheter procedures may be billed separately from per diem reimbursement:

(A) S5517 Catheter declotting supply kit, 1 day = 1 unit;

(B) S5518 Catheter repair supply kit, 1 day = 1 unit;

(C) S5520 PICC insertion supply kit, 1 day=1 unit;

(D) S5521 Midline insertion supply kit, 1 day = 1 unit.

(E) E0776 IV Pole — Purchase

(F) E0776 with modifier RR IV Pole — Rental, 1 day = 1 unit

(3) Home Nursing Visits:

(a) When enteral/parenteral services are performed in the home only a single provider of skilled home health nursing services performed in the home may obtain authorization and/or bill for such services for the same dates of service;

(b) Requests made by providers for any intravenous or enteral/parenteral related skilled nursing services, either solely or in combination with any other skilled nursing services in the home are to be reviewed by the OMAP Medical Unit;

(c) Procedure Codes:

(A) S9524, Home Nursing Visit — 1 Visit = 1 Unit — PA;

(B) T1001,Home Nursing Visit for Assessment — 1 visit = 1 Unit.

(4) Not Otherwise Classified (NOC) — S9379, NOC for Home IV Supplies — PA/BR.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 26-1990, f. 8-31-90, cert. ef. 9-1-90; HR 46-1990, f. & cert. ef. 12-28-90; HR 26-1993, f. & cert. ef. 10-1-93; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0880; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0040

Request Requirements

(1) A copy of a completed OMAP 729 Administrative Medical Examination/Report Authorization is the authorization needed to perform an administrative examination, complete a form, or send copies of records.

(a) Only an employee of the Department of Human Services or Oregon Youth Authority (OYA), or OMAP may complete an OMAP 729.

(b) Keep a copy of the OMAP 729 for seven years.

(2) There are a series of OMAP 729s that may or may not be requested to be completed. Always follow the instructions on the OMAP 729.

(3) Examinations are only to be completed by the provider type listed on the various Procedure Code Tables in these rules.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0080

Billing Instructions — Medical and Ancillary Services Providers

Medical and ancillary services providers must bill on a CMS -1500:

(1) CMS-1500 forms are not provided by the Office of Medical Assistance Programs (OMAP). They may be obtained from local forms suppliers.

(2) More than one procedure code may be billed on the CMS-1500 for services provided.

(3) Do not attach the OMAP 729 or any documents to the CMS-1500. Send the examination or copies of the reports to the branch office shown on the OMAP 729.

(4) Send completed CMS-1500 claim form to OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0100

How to Complete the HCFA-1500 — Medical and Ancillary Services Providers

Each CMS-1500 is a complete billing document. If there is not enough space on the CMS-1500 to bill all procedures provided, complete a new billing form for the rest of the procedures. Do no "carry over" totals from one CMS-1500 to another.

(1) 1a The eight-digit number found on the OMAP 729;

(2) 2 The name as it appears on the OMAP 729;

(3) 21 Enter V68.89;

(4) 24A Must be numeric (09/03/00). Enter the date the examination was done or the date the records were copied;

(5) 24B Enter 3;

(6) 24C Enter the correct type of service (TOS) per Procedure Code Table for Medical and Ancillary Service Providers;

(7) 24D Enter the procedure code as indicated on the OMAP 729;

(8) 24E Enter 1;

(9) 24F Enter the total charge for service;

(10 24G Enter the number of units or services billed;

(11) 26 If your patient account number is entered here, OMAP will print the account number on the Remittance Advice;

(12) 28 Enter the total amount for all charges listed on this CMS-1500;

(13) 30 Re-enter the total amount for all charges listed on this CMS-1500;

(14) 33 Enter your OMAP provider number.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0120

Procedure Code Table — Medical and Ancillary Services Providers

Table — 150-0120. [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 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 7-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 47-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 15-2002, f. & cert. ef. 4-1-02; OMAP 60-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0160

Procedure Code Table — Hospital Providers

Table — 150-0160. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 47-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 15-2002, f. & cert. ef. 4-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0200

Billing Instructions — Licensed Polygrapher

(1) Billing for licensed polygrapher services must be in writing on a CMS-1500.

(2) A polygraph does not qualify as a health care service and is therefore not subject to Health Insurance Portability and Accountability Act (HIPAA) regulations.

(3) CMS-1500 forms are not provided by the Office of Medical Assistance Programs (OMAP). They may be obtained from local forms suppliers.

(4) Do not attach the OMAP 729 or any documents to the CMS-1500. Send the test results to the requesting branch office address shown on the OMAP 729.

(5) Send completed CMS-1500 claim form to OMAP.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0220

How to Complete the CMS-1500 — Licensed Polygrapher

(1) 1a — The eight digit number found on the Office of Medical Assistance Programs (OMAP) 729;

(2) 2 — The name as it appears on the OMAP 729;

(3) 21 — Enter V68.89;

(4) 24A — Enter the date the examination was done. Must be numeric (09/03/00);

(5) 24B — Enter 3;

(6) 24C — Enter S

(7) 24D — Enter the procedure code as indicated on the OMAP 729;

(8) 24E — Enter 1;

(9) 24F — Enter the total charge for the service;

(10) 24G — Enter the number of units or services billed;

(11) 26 — Not required — If the patient account number is entered here, OMAP will print the account number on the Remittance Advice;

(12) 28 — Enter the total amount for all charges listed on this CMS-1500;

(13) 30 — Re-enter the total amount for all charges listed on this CMS-1500;

(14) 33 — Enter your OMAP six-digit provider number.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 61-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0260

Billing Instructions — Copy Services

(1) Copies of records by a copy service provider must be billed on a CMS-1500.

(2) CMS-1500 forms are not provided by the Office of Medical Assistance Programs (OMAP). They may be obtained from local forms suppliers.

(3) Do not attach the OMAP 729 or any documents to the CMS-1500. Send the copies of reports to the branch office shown on the OMAP 729.

(4) Send completed claim form to OMAP.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

410-150-0280

How to Complete the CMS-1500 — Copy Services

(1) 1a The eight-digit number found on the OMAP 729.

(2) 2 The name as it appears on the OMAP 729.

(3) 21 Enter V68.89

(4) 24A Must be numeric (09/03/00). Enter the date the examination was done.

(5) 24B Enter 3.

(6) 24C Enter S.

(7) 24D Enter procedure codes S9981 and/or S9982 on separate lines.

(8) 24E Enter 1.

(9) 24F Enter the total charge for the service.

(10) 24G Enter the number of services billed.

(11) 26 If your patient account number is entered here, OMAP will print the account number on the Remittance Advice.

(12) 28 Enter the total amount for all charges listed on this CMS-1500.

(13) 30 Re-enter the total amount for all charges listed on this CMS-1500.

(14) 33 Enter your OMAP provider number.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 27-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 60-2002, f. & cert. ef. 10-1-02; OMAP 61-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03

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Adm. Order No.: OMAP 23-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 1-1-03
Rules Amended: 410-130-0100, 410-130-0160, 410-130-0180, 410-130-0200, 410-130-0240, 410-130-0250, 410-130-0400, 410-130-0540, 410-130-0562, 410-130-0580, 410-130-0585, 410-130-0660, 410-130-0680, 410-130-0700, 410-130-0760, 410-130-0780, 410-130-0800, 410-130-0940
Subject: The Medical-Surgical services program Administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rules are revised to reflect the 2003 CPT and HCPCS code changes and "crosswalk" OMAP unique codes to CPT and HCPCS codes due to HIPAA requirements. Rule 410-130-0180 is revised to assure clients meet criteria defined on the HSC Prioritized List of Health Services and to clarify policy regarding billing for "take-home" drugs. Rule 410-130-0400 is revised to allow consistent payment regardless of procedure. Rule 410-130-0580 is revised to clarify language regarding clients signature on consent forms. Rule 410-130-0700 is revised to update covered/non-covered supplies consistent with Durable Medical Supplies. Rule 410-130-0800 is revised to remove a statement regarding flu vaccine coverage for high risk children. These and other rules listed above are revised as necessary to take care of housekeeping corrections.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0100

Maternity Case Management (MCM)

(1) The primary purpose of the MCM program is to optimize pregnancy outcomes including the reduction of low birth weight babies.

(2) This program:

(a) Is available to all pregnant clients receiving Medical Assistance Program coverage;

(b) Expands perinatal services to include management of health, economic, social and nutritional factors through the end of pregnancy and a two month postpartum period;

(c) Must be initiated during the pregnancy and before delivery;

(d) Is an additional set of services over and above medical management of pregnant clients;

(e) Allows for billing for intensive nutritional counseling services.

(3) Any time there is a significant change in the health, economic, social, or nutritional factors of the client, the prenatal care provider must be notified.

(4) NOTE: In situations where multiple providers are seeing one client for MCM services, the case manager must coordinate care to ensure claims are not submitted to the Office of Medical Assistance Programs (OMAP) if services are duplicated.

(5) Definitions:

(a) Case Management — An ongoing process to assist the client in obtaining access to and effective utilization of necessary health, social, economic, nutritional, and other services as defined in the Client Service Plan (CSP) or other documentation;

(b) Case Management Visit — A face-to-face encounter between a maternity case manager and the client that must include two or more specific training and education topics, addresses the CSP and provides ongoing relationship development between the client and the case manager;

(c) Client Service Plan (CSP) — A written systematic, client coordinated plan of care which lists goals and actions required to meet the needs of the client as identified in the Initial Assessment and includes a client discharge plan/summary;

(d) High Risk Case Management — Intensive case management services provided to a client identified and documented by the maternity case manager or prenatal care provider as being high risk;

(e) High Risk Client — Includes clients who have current (within the last year) documented alcohol, tobacco or other drug (ATOD) abuse history, or who are 17 or under, or have other conditions identified in the initial assessment instrument;

(f) Home/Environmental Assessment — A visit to the client's primary place of residence to assess health and safety of the client's living conditions;

(g) Initial Assessment — Documented, systematic collection of data with planned interventions as outlined in a CSP to determine current status and identify needs and strengths, in physical, psychosocial, behavioral, developmental, educational, mobility, environmental, nutritional, and emotional areas. Data sources may include:

(A) Initial assessment;

(B) Client interviews;

(C) Available records;

(D) Contacts with collateral providers;

(E) Other professionals; and

(F) Other parties on behalf of the client.

(h) Nutritional Counseling — Intensive nutritional counseling for clients who have at least one of the following documented conditions:

(A) Chronic disease, e.g., diabetes, renal disease;

(B) Hematocrit (Hct) less than 34, (Hemoglobin (Hgb) 11) first trimester, Hct 32 (Hgb10) second or third trimester;

(C) Pre-gravida weight under 100 lbs or over 200 lbs;

(D) Pregnancy weight gain outside the appropriate WIC guidelines;

(E) Eating disorder;

(F) Gestational diabetes;

(G) Hyperemesis;

(H) Pregnancy induced hypertension (preeclampsia);

(I) Other conditions identified by the maternity case manager, physician or prenatal care provider for which adequate services are not accessible through another program.

(i) Prenatal/Perinatal Care Provider — The physician, licensed physician assistant, nurse practitioner, certified nurse midwife, or licensed direct entry midwife providing prenatal or perinatal (including labor and delivery) and/or postnatal services to the client.

(j) Telephone Case Management Visit — A non-face-to-face encounter between a maternity case manager and the client providing identical services of a Case Management Visit (G9012).

(6) Maternity Case Manager Qualifications:

(a) Maternity case managers must be:

(A) Currently licensed as a:

(i) Physician;

(ii) Physician Assistant;

(iii) Nurse Practitioner;

(iv) Certified Nurse Midwife;

(v) Direct Entry Midwife;

(vi) Social Worker; or

(vii) Registered Nurse;

(viii) All of the above must have a minimum of two years related and relevant work experience.

(B) Other paraprofessionals may provide specific services while working under the supervision of one of the practitioners listed in (6)(a)(A) of this rule.

(b) Specific services not within the recognized scope of practice of the provider of MCM services must be referred to an appropriate discipline.

(7) Nutritional Counselor Qualifications — Nutritional counselors must:

(a) Be a registered dietician; or

(b) Have a bachelor's degree in a nutrition related field with two years of related work experience.

(8) Documentation Requirements:

(a) Documentation is required for all MCM services in accordance with OMAP General Rules 410-120-1360; and

(b) A correctly completed OMAP form 2470, 2471, and 2472, or their equivalents meet minimum documentation requirements for Maternity Case Management Services.

(9) OMAP unique codes MCM01 through MCM11 have been deleted. Use HCPCS codes designated below for MCM services described:

(a) G9001 — Initial Assessment, includes:

(A) Client assessment as outlined in the "Definitions" section of this rule;

(B) Development of a CSP which addresses needs identified;

(C) Making referrals as needed;

(D) Assisting with a referral to a prenatal care provider as needed;

(E) Forwarding of the initial assessment and other relevant information to the on-going maternity case manager and prenatal care provider;

(F) Communicating pertinent information to others participating in the client's medical and social care.

(b) Client's record must reflect the date and to whom the initial assessment was sent;

(c) Paid one time per pregnancy per provider. No other MCM service can be performed until after an initial assessment has been completed. No other maternity management codes except a Home/Environmental Assessment (MCM07) and a Case Management Visit (MCM11) may be billed the same day as an initial assessment.

(10) G9002 — Case Management (Full Service) — Includes:

(a) Face-to-face client contacts;

(b) Implementation and monitoring of a CSP:

(A) The client's records must include a CSP and written updates to the plan;

(B) The CSP activities involve determining the client's strengths and needs, setting specific goals and utilizing appropriate resources in a cooperative effort between the client and the maternity case manager.

(c) Referral to services included in the CSP:

(A) Make referrals, provide information and assist the client in self-referral;

(B) Maintain contact with resources to ensure service delivery, share information, and assist with coordination.

(d) Ongoing nutritional evaluation with basic counseling and referrals to nutritional counseling as indicated;

(e) Training, information, and education on the following:

(A) Maternal/Fetal HIV transmission prevention;

(B) Early childhood caries prevention;

(C) Tobacco use and exposure;

(D) Lead exposure and screening; and

(E) Immunizations.

(f) Linkage to labor and delivery services;

(g) Linkage to family planning services as needed;

(h) CSP coordination as follows:

(A) Contact with Department of Human Services worker, if assigned;

(B) Contact with prenatal care provider;

(C) Contact with other community resources/agencies to address needs.

(i) Client advocacy as necessary to facilitate access. The case manager serves as a client advocate and intervenes with agencies or persons to help the client receive appropriate benefits or services;

(j) Assist client in achieving the goals in the CSP. The case manager will advocate for the client when resources are inadequate or the service delivery system is non-responsive;

(k) Paid one time per pregnancy. Bill after delivery when more than three months of service were provided. Services must be initiated prenatally and carried through the date of delivery.

(11) G9009 — Case Management (Partial Service):

(a) Can be billed when the CSP has been developed and case management services (G9002) were initiated prenatally and partially completed;

(b) Served client three months or less.

(12) G9005 — High Risk Case Management (Full Service):

(a) Requires at least eight case management visits;

(b) Paid one time per pregnancy after delivery when more than three months of services were provided to the client;

(c) Served client more than three months;

(d) Can be billed in addition to MCM02.

(13) G9010 — High Risk Case Management (Partial Service):

(a) Payable when the client becomes "high risk" during the latter part of the pregnancy or intensive high risk MCM services were initiated and partially completed but not carried through to the date of delivery;

(b) Served client three months or less;

(c) Can be billed in addition to G9002 or G9009

(14) S9470 — Nutritional Counseling:

(a) Available for clients who have at least one of the documented conditions listed in the "Definitions" section of this rule;

(b) Documentation must include all of the following:

(A) Nutritional assessment;

(B) Nutritional care plan;

(C) Regular client follow-up.

(c) May be billed in addition to other MCM services;

(d) Paid one time per pregnancy.

(15) G9006 — Home/Environment Assessment:

(a) Includes an assessment of the health and safety of the client's living conditions with training and education as indicated in the following areas (must include all topics):

(A) Housing and Living Situation:

(i) General condition of house;

(ii) Number of bedrooms (vs. number of people);

(iii) Food storage facilities;

(iv) Food preparation facilities;

(v) Adequacy of shelter;

(vi) Heating/cooling/ventilation;

(vii) Sanitation/sewer;

(viii) Running water;

(ix) Phone service.

(B) Safety:

(i) Guns (locked and unloaded);

(ii) Smoke alarm (installed and working);

(iii) Fire prevention (e.g., smoking habits, if applicable);

(iv) Adequate exits from all locations and free of obstacles.

(C) Exposure to toxins, such as:

(i) Exposure to lead (peeling paint, lead pipes, lead dust);

(ii) Chemical use in or near home;

(iii) Asbestos.

(D) Pet health issues, such as:

(i) Cats (Toxoplasmosis);

(ii) Birds (Psittacosis);

(iii) Reptiles (Salmonella), i.e., iguanas, turtles, snakes.

(b) One Home/Environment Assessment may be billed per pregnancy. Additional Home/Environment Assessments may be billed with documentation of problems and necessary follow-up or when client moves. Documentation must be submitted with the claim to support the additional home/environment assessment.

(16) G9011 — Telephone Case Management Visit:

(a) A non-face-to-face encounter between a maternity case manager and the client, meeting all requirements of a Case Management Visit (G9012) and when a face-to-face Case Management Visit is not possible or practical;

(b) In lieu of a Case Management Visit and counted towards the total number of Case Management Visits (see G9012 for limitations).

(17) G9012 — Case Management Visit:

(a) Each Case Management Visit must include an evaluation and/or revision of objectives and activities addressed in the CSP and training, information and education regarding at least two of the following topics:

(A) Pre-term birth prevention:

(i) Factors associated with increased risk;

(ii) Early detection of symptoms;

(iii) Obtaining help/information;

(iv) Stress reduction.

(B) Pregnancy and Childbirth:

(i) Common discomforts of pregnancy;

(ii) Pregnancy danger signs and symptoms;
(iii) Labor and birth process;
(iv) Coping strategies;
(v) Common interventions;
(vi) Emergencies.
(C) Health status:
(i) Rest/exercise;
(ii) Digestive tract changes;
(iii) Nutrition;
(iv) Weight gain;
(v) Food availability;
(vi) Food selection/preparation;
(vii) Nutrient/calorie intake;
(viii) Medications.
(D) Environment:
(i) Health adequacy, safety, and sanitation;
(ii) Environmental hazards;
(iii) Toxins/Teratogens.
(E) Emotional:
(i) Stress reduction;
(ii) Coping strategies;
(iii) Hormonal changes;
(iv) Relationships.
(F) Family planning;
(G) Sexually Transmitted Diseases;
(H) Substance/alcohol use;
(I) Infant Care/Parenting:
(i) Feeding/nutrition/infant growth;
(ii) Clothing needs;
(iii) Infant sleep patterns and location;
(iv) Wellness care/immunizations;
(v) Breastfeeding;
(vi) SIDS and Back To Sleep;
(vii) Developmental milestones;
(viii) Common interventions;
(ix) Emergencies;
(x) Safety;
(xi) Infant/parent interaction;
(xii) Bonding/attachment;
(xiii) Infant communication patterns/cues;
(xiv) Parental frustration/sleep deprivation;
(xv) Household management support;
(xvi) Community resources;
(xvii) Child nurturing/protection.

(b) Four Case Management Visits may be billed per pregnancy. Telephone contacts (G9011) are included in this limitation;

(c) Six additional Case Management Visits may be billed if the client is identified as High Risk. These additional visits may not be billed until after delivery. Bills for these additional six visits may only be submitted with or after High Risk Full (G9005) or Partial (G9010) case management have been billed. Telephone contacts (G9011) are included in this limitation;

(d) May be provided in the client's home or other site.

[ED. NOTE: Forms referenced in this rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 57-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0200 & 461-014-0201; AFS 54-1989(Temp), f. 9-28-89, cert. ef. 10-1-89; AFS 71-1989, f. & cert. ef. 12-1-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0580; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 34-1998, f. & cert. ef. 10-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0160
Codes

(1) ICD-9-CM Diagnosis Codes:

(a) Always use the principal diagnosis code in the first position to the highest degree of specificity. List up to three additional diagnosis codes if the claim includes charges for services that relate to the additional diagnoses. However, it is not necessary to include more than one diagnosis code per procedure code;

(b) Diagnosis codes are required on all billings including those from independent laboratories and portable X-ray providers;

(c) Always supply the ICD-9-CM diagnosis code to ancillary services providers when prescribing services, equipment and supplies.

(2) CPT, HCPCS, and OMAP Unique Codes:

(a) Use only 2003 CPT and HCPCS codes for services provided after March 31, 2003 . Use codes from either the 2002 or 2003CPT and HCPCS code books for services provided between January 1, and March 31, 2003. Do not use both a 2002 and 2003 code for the same service. CPT category III codes (codes with fifth digit "T") are not Medical Assistance Program covered services;

(b) The Medical-Surgical Services guide lists the 2003 HCPCS/CPT codes that require authorization, or have limitations. The Health Services Commission's Prioritized List of Health Services (rule 410-141-0520) determines covered services. OMAP unique codes have all been deleted.

(c) Use the most applicable CPT or HCPCS code. Do not fragment coding when services can be included in a single code (see the "Bundled Services" section of this rule). Do not use both CPT and HCPCS codes for the same procedure. This would be duplicate billing;

(d) For determining the appropriate level of service code for Evaluation and Management services, read the definitions in the CPT and HCPCS code book. Use the definitions to verify your level of service, especially for office visits. Unless otherwise specified in the Medical-Surgical provider guide, use the guidelines from CPT and HCPCS.

(3) Modifiers — See the Billing Section of the Medical-Surgical Services provider guide for use of modifiers.

(4) Bundled Services — Reimbursements for some services are "bundled" into the payment for another service (e.g., payment for obtaining a PAP smear is bundled into the payment for the office visit). Bundled services cannot be billed separately to OMAP or the client. The abbreviation "BND" in the code lists in the OMAP Medical-Surgical Services provider guide indicates the procedure is bundled into another one.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0610; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f, 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0180
Drugs

(1) Not covered services include:

(a) Laetrile;

(b) Home pregnancy kits and products designed to promote fertility;

(c) DMSO, except for instillation into the urinary bladder for symptomatic relief of interstitial cystitis. This services does not require prior authorization;

(d) Infertility drugs.

(2) Drug Administration. Reimbursement is limited to drugs administered by the prescribing practitioner in the office, clinic or home settings. Drugs for self-administration by the client are not billable, EXCEPT contraceptives such as birth control pills, spemicides and patches:

(a) Use an appropriate CPT therapeutic injection code for administration of injections;

(b) Use an appropriate HCPCS code for the specific drug. Do not bill for drugs under code 99070;

(c) When billing unclassified drugs, bill at acquisition cost (purchase price plus postage) and use the following codes:

(A) J3490 — unclassified drugs;

(B) J7699 — NOC drugs, inhalation, administered through DME;

(C) J7799 — NOC drugs, other than inhalation drugs, administered through DME;

(D) J8499 — prescription drug, oral, non-chemotherapeutic, NOS;

(E) J9999 — NOC, anti-neoplastic drug;

(F) Include the name of the drug, NDC number, and dosage.

(d) Epoetin Alpha (EPO) Codes Q9920-Q9940 are covered;

(e) Do not bill for local anesthetics. Reimbursement is included in the payment for the tray and/or procedure.

(f) Not Covered/Bundled/Require Authorization:

(A) J3570, Laetrile, Amygdalin, Vitamin B-17. Not Covered;

(B) J3520, Edetate disodium, per 150 mg. Not Covered;

(C) Baclofen requires prior authorization when instilled in an implantable pump.

(3) Follow criteria outlined in the following:

(a) Billing Requirements — OAR 410-121-0150;

(b) Brand Name Pharmaceuticals — OAR 410-121-0155;

(c) Prior Authorization Procedures — OAR 410-121-0060;

(d) Drugs and Products Requiring Prior Authorization — OAR 410-121-0040;

(e) Drug Use Review — OAR 410-121-0100;

(f) Participation in Medicaid Prudent Pharmaceutical Purchasing Program — OAR 410-121-0157.

(4) Clozapine Therapy:

(a) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications;

(b) Clozapine Supervision is the management and record keeping of Clozapine dispensing as required by the manufacturer of Clozapine:

(A) Providers billing for Clozapine supervision must document all of the following:

(i) Exact date and results of White Blood Counts (WBC), upon upon initiation of therapy and at recommended intervals per the drug labeling;

(ii) Notations of current dosage and change in dosage;

(iii) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;

(iv) Dates provider sent required information to manufacturer.

(B) Only one provider (either a physician or pharmacist) may bill per week per client;

(C) Limited to five units per 30 days per client;

(D) Use code 90862 with modifier TC to bill for Clozapine supervision;

(E) Do not use CMS01 or 85007 with modifier 26 for Clozapine supervision.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0620; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 33-2002, f. & cert. ef. 8-1-02; OMAP 39-2002, f. 9-13-02, cert. ef. 9-15-02; OMAP 52-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0200

Prior Authorization

(1) If the client is covered by a managed care plan, contact the appropriate managed care plan for prior authorization (PA) requirements and instructions for billing the plan.

(2) If the client has both Medicare and Medical Assistance Program coverage, PA is not required for services covered by Medicare, except for most transplants.

(3) Kidney and cornea transplants do not require PA unless they are performed out-of-state.

(4) Contact the Office of Medical Assistance Programs (OMAP) Medical Director's Office for PA for transplants other than kidney and cornea, and requests for non-emergent, non-urgent out-of-state services. Refer to the OMAP Transplant Services guide for further information on transplants and refer to the General Rules for further information concerning out-of-state services.

(5) Services for clients of the Medically Fragile Children's Unit must be authorized by that Unit.

(6) All other procedures listed in the Medical-Surgical Services provider guide with a PA indicator must be prior authorized by the Oregon Medical Professional Review Organization (OMPRO) when performed in any setting. A second opinion may be requested by OMAP or OMPRO before authorization of payment is given for a surgery.

(7) Hospital admissions do not require PA unless the procedure requires PA.

(8) PA is not required for emergent or urgent procedures or services.

(9) Treating and performing practitioners are responsible for obtaining PA.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 868, f. 12-30-77, ef. 2-1-78; AFS 65-1980, f. 9-23-80, ef. 10-1-80; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 23-1986, f. 3-19-86, ef. 5-1-86; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0045; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0630; HR 25-1990(Temp), f. 8-31-90, cert. ef. 9-1-90; HR 44-1990, f. & cert. ef. 11-30-90; HR 17-1991(Temp), f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0240

General Medicine

(1) Allergy Desensitization — Bill single and multiple dose vials of allergy extract per dose.

(2) Chemical Dependency Services — Must be provided by programs approved by the Office of Alcohol and Drug Abuse Programs. Payable to private physicians, psychologists and social workers who have a current Letter of Approval. Outpatient and outpatient opiate substitution treatment, provided by approved programs, are billable for persons who are not members of a managed care plan.

(3) Mental Health Services — Must be provided by local Mental Health Clinics or a client's Mental Health Organization (MHO). Not payable to private physicians, psychologists, and social workers.

(4) Neurology/Neuromuscular — Payment for polysomnographs and multiple sleep latency test (MSLT) are each limited to two in a 12-month period.

(5) Physical Medicine — If a service is performed by a physical therapist, refer to the Physical and Occupational Therapy Services provider guide for instructions.

(6) Psychiatric Services:

(a) Psychiatric or psychological evaluations (administrative exams and reports) can be requested by the local Adult and Family Services Division (AFS), Senior and Disabled Services Division (SDSD), Mental Health and Developmental Disabilities Services Division (MHDDSD), Oregon Youth Authority (OYA) or State Office of Services for Children and Families (SOSCF; formerly CSD) branch offices or the Office of Medical Assistance Programs (OMAP). Refer to the Administrative Examination and Report Billing guide for more information;

(b) Psychiatrists can be reimbursed by OMAP for symptomatic diagnosis and services which are somatic (physical) in nature. Contact the local Mental Health Department for covered psychiatric and psychological services.

(7) Special Services and Reports — OMAP will pay for procedure codes 99052 (service between 10 pm and 8 am in addition to basic service) or 99054 (service on Sundays and holidays in addition to basic service) only when the service provided is outside the practitioner's usual or scheduled working hours. These services are not payable to emergency room based physicians.

(8) Not Covered/Bundled/Require Authorization:

(a) M0300, IV chelation therapy, not covered;

(b) M0301, Fabric wrapping of abdominal aneurysm, not covered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 839(Temp), f. & ef. 4-28-77; PWC 849, f. 7-15-77, ef. 8-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 14-1978(Temp), f. 4-14-78, ef. 4-15-78; AFS 31-1978, f. & ef. 8-1-78; AFS 26-1980, f. 5-21-80, ef. 6-1-80, AFS 56-1980(Temp), f. 8-29-80, ef. 9-1-80; AFS 2-1981, f. 1-9-81, ef. 2-1-81; AFS 36-1981, f. 6-29-81, ef. 7-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1983, f. & ef. 8-1-83; AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; ; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 48-1989, f. & cert. ef. 8-24-89; Renumbered from 461-014-0021 & 461-14-056; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0650, 461-014-0690 & 461-014-0700; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 18-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; ; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 24-1991, f. & cert. ef. 6-18-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 18-1992, f. & cert. ef. 7-1-92; HR 36-1992, f. & cert. ef. 12-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94; Renumbered from 410-130-0320, 410-130-0340, 410-130-0360 & 410-130-0740; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0250

Neonatal/Pediatric Intensive Care

(1) Neonatal Intensive Care Unit (NICU) procedure codes are reimbursed only to neonatologists and pediatric intensivists for services provided to infants when admitted to a Neonatal or Pediatric Intensive Care Unit (NICU/PICU). All other pediatricians must use other CPT codes when billing for services provided to neonates and infants.

(2) Consultations by specialists other than neonatologists and pediatric intensivists are payable in addition to these codes.

(3) Neonatal intensive care codes are not payable for infants on Extracorporeal Membrane Oxygenation (ECMO). Use specific CPT ECMO codes.

(4) NIC01 has been deleted. Use an appropriate CPT code.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 38-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0400
Anesthesia

(1) Anesthesia is not covered for procedures that are below the funding line on the Health Services Commission's Prioritized List of Health Services.

(2) Effective November 1, 2002, reimbursement will be based on the base units established by the American Society of Anesthesiologists in their current Relative Value Guide on the anesthesia code plus time of one unit per 15 minutes (8 to 14 minutes constitutes one additional unit) of anesthesia time. Exceptions: anesthesia for neuraxial labor analgesia/anesthesia must be billed at the base rate plus one unit for each additional 15 minutes of face-to-face contact time.

(3) Reimbursement for qualifying circumstances codes 99100-99140 and modifiers P1-P6 is bundled in the payment for codes 00100-01999. Do not add charges for 99100-99140 and modifiers P1-P6 in charges for 00100-01999.

(4) A valid consent form is required for all hysterectomies and sterilizations. OMAP unique code ANE01 for sterilizations and ANE09 for abortions have been deleted. Use appropriate CPT anesthesia codes for abortions, hysterectomies, and sterilizations.

(5) If prior authorization (PA) was not obtained on a procedure that requires PA, then the anesthesia services may not be paid.

(6) Anesthesia services are not payable to the provider performing the surgical procedure except for conscious sedation.

(7) Not covered/Bundled/Require Authorization:

(a) 00580 — Anesthesia for heart transplant or heart/lung transplant. PA required;

(b) 00796 — Anesthesia for intraperitoneal procedures in upper abdomen, including laparoscopy: liver transplant (recipient) PA required;

(c) 00802 — Anesthesia for procedures on lower anterior abdominal wall; panniculectomy. Not covered;

(d) 00938 — Anesthesia for procedures on male external genitalia; insertion of penile prosthesis (perineal approach). PA required;

(e) 99100 — Anesthesia for patient of extreme age, under one year and over seventy. Reimbursement is bundled in codes 00100-01999. Charges for 99100-99140 cannot be added to charges for 00100-01999. Services considered bundled;

(f) 99116 — Anesthesia complicated by utilization of total body hypothermia. Reimbursement is bundled in codes 00100-01999. Charges for 99100-99140 cannot be added to charges for 00100-01999. Services considered bundled;

(g) 99135 — Anesthesia complicated by utilization of controlled hypotension. Reimbursement is bundled in codes 00100-01999. Charges for 99100-99140 cannot be added to charges for 00100-01999. Services considered bundled;

(h) 99140 — Anesthesia complicated by emergency conditions (specify). Reimbursement is bundled in codes 00100-01999. Charges for 99100-99140 cannot be added to charges for 00100-01999. Services considered bundled.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0720; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0540
Female Genital System

(1) Hysterectomies for purposes of sterilization are not covered.

(2) Elective diagnostic laparoscopies require prior authorization. Table 540.

[ED. NOTE: Tables referenced in this rule are available from the agency.]
Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: AFS 11-1978(Temp), f. 3-2-78, ef. 3-3-78; AFS 26-1978, f. 6-30-78, ef. 7-1-78; AFS 44-1978, f. & ef. 11-20-78; AFS 4-1979(Temp) f. & ef. 3-8-79; AFS 11-1979, f. 6-28-79, ef. 7-1-79; AFS 42-1979(Temp), f. & ef. 11-1-79; AFS 54-1979(Temp), f. 12-31-79, ef. 1-1-80; AFS 8-1980, f. 2-15-80, ef. 3-1-80; AFS 18-1980, f. & ef. 3-31-80; AFS 66-1980(Temp), f. & ef. 9-23-80; AFS 77-1980(Temp), f. & ef. 10-17-80; AFS 11-1981, f. 2-11-81, ef. 3-1-81; AFS 45-1981(Temp), f. 7-10-81, ef. 7-12-81; AFS 79-1981, f. 11-24-81, ef. 12-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 80-1982(Temp), f. & ef. 8-20-82; AFS 95-1982, f. & ef. 10-19-82; AFS 4-1985, f. 1-17-85, ef. 2-1-85; AFS 23-1986, f. 3-19-86, ef. 5-1-86; Renumbered from 461-014-0031 & 461-014-0052; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0830; HR 14-1991(Temp), f. & cert. ef. 3-7-91; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 21-1991, f. 4-16-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 16-1993, f. & cert. ef. 7-2-93; HR 6-1994, f. & cert. ef. 2-1-94; Renumbered from 410-130-0560 & 410-130-0561; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0562
Abortion

(1) For medically induced abortions by oral ingestion of medication use codes S0190 and S0191 for the medications, and S0199 for all visits, counseling, HCG, ultrasounds, and supplies (global package except for drugs).

(2) For surgical abortions and abortion related services, use CPT codes 59840 through 59857.

(3) All services related to abortions (such as lab, ultrasounds, and pathology) may be billed separately, as reimbursement is no longer bundled in the procedure reimbursement. Add modifier U4 (abortion related services) to all abortion related services.

(4) Use the most appropriate ICD-9 diagnosis code.

(5) OMAP Unique Codes TAS01-TAS08 have been deleted.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0580
Sterilizations

(1) A copy of a properly completed Consent to Sterilization form (OMAP 742), the consent form in the federal brochure DHHS Publication No. (05) 79-50062 (Male), DHHS Publication No. (05) 79-50061 (Female), or another federally approved form must be submitted to the Office of Medical Assistance Programs (OMAP) for all sterilizations. The original consent form must be retained in the clinical records. Prior authorization is not required.

(2) Voluntary Sterilization:

(a) Consent for sterilization must be an informed choice. The consent is not valid if signed when the client is:

(A) In labor;

(B) Seeking or obtaining an abortion; or

(C) Under the influence of alcohol or drugs.

(b) Age 15 and over:

(A) At least 30 days, but not more than 180 days, must have passed between the date of the informed written consent (date of signature) and the date of the sterilization except:

(i) In the case of premature delivery by vaginal or cesarean section the consent form must have been signed at least 72 hours before the sterilization is performed and more than 30 days before the expected date of confinement;

(ii) In cases of emergency abdominal surgery (other than cesarean section), the consent form must have been signed at least 72 hours before the sterilization was performed.

(B) The client must sign and date the consent form before the person obtaining the consent signs and dates the consent. The date of signature must meet the above criteria. The person obtaining the consent must sign the consent form anytime after the client has signed but before the date of the sterilization. If an interpreter is provided to assist the individual being sterilized, the interpreter must also sign the consent form on the same date as the client;

(C) The person must be legally competent to give informed consent. The physician performing the procedure, and the person obtaining the consent if other than the physician, must review with the person the detailed information appearing on the Consent to Sterilization form regarding effects and permanence of the procedure, alternative birth control methods, and explain that withdrawal of consent at any time prior to the surgery will not result in any loss of other program benefits.

(c) Under age 15 — The parent or guardian must sign the consent form more than 30 days before the date of the procedure.

(3) Involuntary Sterilization -- Minors (15 years to 21 years) and incapacitated clients:

(a) Only the Circuit Court of the county in which the client resides can determine that the client is unable to give informed consent;

(b) The Circuit Court must determine that the client requires sterilization;

(c) When the court orders a sterilization, it issues a Sterilization Order. The order must be attached to the billing invoice. No waiting period or additional documentation is required.

(4) Submitting the Consent to Sterilization Form:

(a) After the sterilization is performed, a copy of the completed Consent to Sterilization form (OMAP 742) should be mailed by the performing surgeon to OMAP-HFO, Claims Management, in Salem;

(b) OMAP will review the form for errors and either call the provider or mail the form back if there are discrepancies. The Consent to Sterilization form must be completed in full. Consent forms submitted to OMAP without the client's signature or the date of signature by the client are invalid; clients may not sign or date the consent form retroactively;

(c) Do not submit the OMAP 742 with the claim;

(d) Initial claims by the surgeon, anesthesiologist and hospital will be paid without review for the consent form. All sterilization claims will be reviewed during a post-payment audit. If the OMAP 742 is missing or invalid, payments directly related to the sterilization will be recouped from the surgeon, anesthesiologist and hospital;

(5) How to Complete the Consent to Sterilization Form:

(a) Enter the client's name, sex, and recipient number where indicated;

(b) Client's Statement:

(A) 1 — Enter the name of the doctor or clinic;

(B) 2 — Enter the name of the surgical procedure;

(C) 3 — Check the appropriate age box and enter the birth date;

(D) 4 — Enter the client's name, the name of the doctor performing the procedure, and the name of the operation to be performed;

(E) 5 — Optional;

(F) 6 — The client must sign and date the consent.

(c) Interpreter's Statement — Complete only if an interpreter is required:

(A) 7 — Enter the name of the language used to explain the consent to the client;

(B) 8 — The interpreter must sign and date the consent on the same date as the client.

(d) Statement of Person Obtaining Consent:

(A) 9 — Enter the client's name and the name of the procedure to be performed;

(B) 10 — Check appropriate age box;

(C) 11 — The person obtaining the consent must sign, date, and enter the name and full address of the physician or facility. The date of signature must be on or after the date the client signs the consent, but before the procedure is performed.

(e) Physician's Statement:

(A) 12 — Enter the client's name, the date the procedure was performed, and the name of the procedure to be performed;

(B) 13 — Check the appropriate age box;

(C) 14 — Check the appropriate box. If the second box is checked, check the appropriate circumstance and provide further information;

(D) 15 — The performing physician must sign this consent. The date of signature must be either the date the sterilization was performed or a date following the sterilization.

(f) Mail a copy of the Consent to Sterilization form to: OMAP — POS, Claims Resolution.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 803(Temp), f. & ef. 7-1-76; PWC 813, f. & ef. 10-1-76; PWC 834, f. 3-31-77, ef. 5-1-77; PWC 868, f. 12-30-77, ef. 2-1-78; AFS 4-1979(Temp), f. & ef. 3-8-79; AFS 11-1979, f. 6-18-79, ef. 7-1-79; AFS 50-1981(Temp), f. & ef. 8-5-81; AFS 79-1981, f. 11-24-81, ef. 12-1-81; AFS 27-1982, f. 4-22-82 & AFS 51-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 42-1985, f. & ef. 7-1-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; Renumbered from 461-014-0030; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0840; HR 43-1991, f. & cert. ef. 10-1-91; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 6-1994, f. & cert. ef. 2-1-94; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0585

Family Planning Services

(1) Family planning services are available to individuals of childbearing age (including minors who can be considered to be sexually active) who desire such services. Family planning services are those intended to prevent or delay pregnancy, or otherwise control family size. Counseling services, laboratory tests, medical procedures, and pharmaceutical supplies and devices are covered if provided for family planning purposes. Bill these services using appropriate CPT and HCPCS codes.

(2) Family planning clinics will be reimbursed only for services related to family planning.

(3) Family planning methods include natural family planning, abstinence, intrauterine device, cervical cap, prescriptions, subdermal implants, condoms, and diaphragms.

(4) Bill all family planning with the most appropriate ICD-9-CM diagnosis codes in the V25 series (Contraceptive Management) and add modifier FP to all procedure codes.

(5) OMAP unique codes FPS01 through FPS18 have been deleted.

(6) For annual family planning visits previously billed under FPS01 through FPS18 use codes from the CPT Preventative Medicine series (9938X - 9939X) and add modifier FP. These codes include comprehensive contraceptive counseling.

(7) When comprehensive contraceptive counseling is the only service provided at the encounter, use the appropriate code from the Preventative Medicine, Individual Counseling series (99401-99404) and add modifier FP.

(8) Contraceptive Supplies. Use the following HCPCS codes for contraceptive supplies:

(a) A4260, Levonorgestrel (contraceptive) implants system, including implants and supplies;

(b) A4261, Cervical caps;

(c) A4266 Diaphragm for contraceptive use;

(d) A4267 Male condoms, each;

(e) A4268 Female condoms, each;

(f) A4269 Spermicide (e.g., foam, gel), each tube;

(g) J1055, Injection, medroxyprogesterone acetate (Depo Provera) for contraceptive use, 150 mg;

(h) J1056, Injection, medroxyprogesterone acetate 25mg/estradiol cypionate 5mg (Lunelle);

(i) J7300, Intrauterine copper contraceptive (Paragard);

(j) J7302 Levonorgestrel-releasing intrauterine contraception system, 52 mg (Mirena);

(k) S4993 Contraceptive pills for birth control, per monthly packet;

(l) Where there are no specific CPT or HCPCS codes, use an appropriate unlisted HCPCS code and add modifier — FP. Bill at acquisition cost;

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0660

Radiology

(1) Provision of diagnostic and therapeutic radionuclide(s), HCPCS A9500- A9699, is payable only when used in conjunction with diagnostic nuclear medicine procedures (CPT codes 78000 through 78999) or radiation therapy and radiopharmaceutical procedures (CPT codes 77401-77799 and 79000-7999). CPT code(s) 78990 and 79990 are not covered.

(2) Bill routine screening mammographies under CPT code 76092.

(3) HCPCS codes R0070 through R0076 are covered.

(4) Contrast and diagnostic imaging agents — Reimbursement is bundled in the radiologic procedure except for low osmolar contrast materials (LOCM). Supply of LOCM (A4644-A4646) may be billed in addition to the radiology procedure only when the following criteria are met:

(a) Prior adverse reaction to contrast material, with the exception of a sensation of heat, flushing or a single episode of nausea or vomiting;

(b) History of asthma or significant allergies;

(c) Significant cardiac dysfunction including recent or imminent cardiac decompensation, severe arrhythmia, unstable angina pectoris, recent myocardial infarction or pulmonary hypertension;

(d) Decrease in renal function;

(e) Diabetes;

(f) Dysproteinemia;

(g) Severe dehydration;

(h) Altered blood brain barrier (i.e., brain tumor, subarachnoid hemorrhage);

(i) Sickle cell disease, or;

(j) Generalized severe debilitation.

(5) Not Covered/Bundled/Require Authorization — Table 660.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0790; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0680

Laboratory

(1) Not covered services include:

(a) Paternity tests;

(b) Pre-marital profiles;

(c) Routine chemical screens for substance surveillance and employment purposes, except as requested by the State Office of Services for Children and Families (SOSCF) for case work planning through the administrative examination process;

(d) Post-mortem tests;

(e) Blood or blood components for transfusions;

(f) Travel for specimen collection (except for home bound clients not residing in a nursing home).

(2) Payment for newborn screening kits and collection and handling for newborn screening (NBS) tests performed by the Oregon State Public Health Laboratory (OSPHL) is considered bundled into the delivery fee. Replacement of lost NBS kits may be billed with code S3620 with modifier TC if the loss is documented in the client's medical record. Newborn screening confirmation tests performed by reference laboratories at the request of the OSPHL shall be reimbursed only to the OSPHL.

(3) Transplant lab codes are covered only if the transplant is covered and if the transplant service has been authorized.

(4) All lab tests must be specifically ordered by, or under the direction of licensed medical practitioners within the scope of their license.

(5) If a lab sends a specimen to a reference lab for additional testing, the reference lab may not bill for the same tests as provided by the referring lab.

(6) The date of specimen collection must be used on the claim as the date of service (DOS) regardless of the actual date the test was performed.

(7) A provider who sends a specimen to another provider for testing may bill the Office of Medical Assistance Programs (OMAP) only for drawing a blood sample through venipuncture or capillary puncture or collecting a urine sample by catheterization:

(a) Venipuncture or capillary puncture and urinary catheterization are payable only once per day regardless of the frequency performed;

(b) Collection and/or handling of other specimens (such as PAP or other smears, voided urine samples, or stool specimens) are considered bundled into the exam and/or lab procedures and are not payable in addition to the laboratory test.

(8) Pass-along charges from the performing laboratory to another laboratory, medical practitioner, or specialized clinic do not qualify for payment and are not to be billed to OMAP.

(9) Charges for tests performed by independent clinical laboratories may only be billed by and paid to the performing provider or a designated billing agent. Only hospital-based laboratories may bill for lab tests performed by reference laboratories.

(10) Laboratory Certification — Laboratory services are reimbursable only to facilities with a current, valid Oregon State clinical laboratory license issued by the Oregon Health Division or to laboratories outside of Oregon which are certified by the Centers for Medicare and Medicaid Services (CMS), formerly Health Care Financing Administration (HCFA), as meeting the requirements of the Clinical Laboratory Improvement Amendments (CLIA) and the provider has notified OMAP of the assigned ten-digit CLIA number. Payment is limited to the level of testing authorized by the state license or CLIA certificate at the time of test performance.

(11) Organ Panels:

(a) OMAP will only reimburse panels as defined by the CPT codebook for the year the laboratory service was provided. Tests within a panel may not be billed individually even when ordered separately. The same panel may be billed only once per day per client;

(b) Payment will be made at the panel maximum allowable rate if two or more tests within the panel are billed separately and the total reimbursement rate of the combined codes exceeds the panel rate even if all the tests listed in the panel are not ordered or performed.

(12) CLIA requires all entities that perform even one test, including waived tests on... "materials 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" to meet certain Federal requirements. If an entity performs tests for these purposes, it is considered under CLIA to be a laboratory.

(13) Not Covered/Bundled/Require Authorization — Table 680.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-30-84, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; Renumbered from 461-014-0056; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0800; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; HR 27-1992(Temp), f. & cert. ef. 9-1-92; HR 33-1992, f. 10-30-92, cert. ef. 11-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 15-1998, f. & cert. ef. 5-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0700

Supplies — DME and Other Materials

(1) Use appropriate HCPCS codes to bill all supplies and materials. CPT code 99070 is no longer billable for supplies and materials. Use S3620 with modifier — TC for lost newborn screening (NBS) kits.

(2) Reimbursement for office surgical suites and office equipment is bundled in the surgical procedures.

(3) Materials normally used in the office setting do not qualify for extra payments. Such items generally include small sterile trays/setups, cleaning agents, examination utensils, lubricants, local anesthetics, and small bandages.

(4) Contraceptive Supplies — See rule 410-130-0585.

(5) Medical and Surgical Supplies (A4000 - A8999):

(a) Only the following medical and surgical supplies HCPCS codes are covered for medical-surgical providers when provided in the office setting:

(A) A4220;
(B) A4260 - A4263;
(C) A4266 - A4269;
(D) A4300;
(E) A4305 - A4320;
(F) A4322 - A4328;
(G) A4330 - A4331;
(H) A4333 - A4346;
(I) A4348 - A4362;
(J) A4367;
(K) A4369;
(L) A4371 - A4373;
(M) A4375-A4385;
(N) A4387 - A4399;
(O) A4404 - A4421;
(P) A4460 - A4465;
(Q) A4550;
(R) A4561 - A4562;
(S) A4565;
(T) A4572;
(U) A4644 - A4646 (see rule 410-130-0660);
(V) A4649;
(W) A5051 - A5112;
(X) A5500 - A5507;
(Y) A5509 - A5511;
(Z) A6010 - A6011;
(AA) A6021 - A6224;
(BB) A6231 - A6248;
(CC) A6251 - A6259;
(DD) A6261 - A6264;
(EE) A6266 - A6406;
(FF) A6421 -A6438.

(b) Refer all other items in HCPCS series A4000 - A9999 to Durable Medical Equipment (DME) providers;

(c) A4570, A4580, and A4590 are no longer covered, use specific HCPCS codes for splints and cast materials from the Q4001-Q4051 series;

(d) A9000 - A9999 (administrative, investigational, and miscellaneous) are not covered, except for A9500 - A4699 (see rule 410-130-0660);

(e) Bill unlisted codes at aquisition cost.

(6) Home Enteral/Parenteral Nutrition and IV Services (B4000 - B9999):

(a) HCPCS codes B4034 - B4036 and B4150 - B9999 are not covered for medical-surgical providers. Refer these services to home enteral/parenteral providers;

(b) Temporaty C codes are not covered.

(7) Durable Medical Equipment (E0100-E1799):

(a) Only the following DME HCPCS codes are covered for medical-surgical providers when provided in an office setting:

(A) E0100 - E0116;

(B) E0602;

(C) E0191;

(D) E1399.

(b) Refer all other items with "E" series HCPCS codes, such as walkers, commodes, hospital beds, oxygen, monitoring equipment, ventilators, glucose monitors, TENS units, wheelchairs and accessories, to DME providers.

(8) Drugs (J0000 - J9999): See OAR 410-130-0180 for coverage of drugs under HCPCS J0000-J9999.

(9) Temporary Codes (K0000 - K9999) - Refer all items with "K" series HCPCS codes to DME providers.

(10) Orthotic and Prosthetic Procedures (L0000 - L9999):

(a) See the OMAP Durable Medical Equipment and Medical Supplies provider guide for coverage criteria for orthotics and prosthetics;

(b) All codes in the L0000 - L9999 series are covered except: Table 700;

(c) Reimbursement for orthotics is a global package which includes:

(A) Measurements;

(B) Moldings;

(C) Orthotic items;

(D) Adjustments;

(E) Fittings.

(d) Evaluation and Management codes are covered only for the diagnostic visit where the medical appropriateness for the orthotic is determined and for follow-up visits unrelated to the fitting of the orthotic.

(11) Unlisted HCPCS Codes:

(a) For items that do not have specific HCPCS codes, use unlisted HCPCS code and bill at acquisition cost: purchase price plus postage;

(b) Use HCPCS code S3620 with modifier TC to bill for lost NBS kits. Do not use 99070 for drugs or lost NBS kits.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 57-1983, f. 11-29-83, ef. 1-1-84; AFS 48-1984(Temp), f. 11-3084, ef. 12-1-84; AFS 29-1985, f. 5-22-85, ef. 5-29-85; AFS 50-1986, f. 6-30-86, ef. 8-1-86; AFS 56-1987, f. 10-29-87, ef. 11-1-87; Renumbered from 461-014-0056; AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; AFS 10-1990, f. 3-30-90, cert. ef. 4-1-90; Renumbered from 461-014-0830; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0760

Hysterectomy

(1) Hysterectomies performed for the sole purpose of sterilization are not covered.

(2) All hysterectomies except radical hysterectomies require prior authorization (PA).

(3) A properly completed Hysterectomy Consent form (OMAP 741) or a statement signed by the performing physician depending upon the following circumstances is required for all hysterectomies:

(a) When a woman is capable of bearing children:

(A) Prior to the surgery, the person securing authorization to perform the hysterectomy must inform the woman and her representative, if any, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing;

(B) The woman or her representative, if any, must sign the consent to acknowledge she received that information.

(b) When a woman is sterile prior to the hysterectomy, the physician who performs the hysterectomy must certify in writing that the woman was already sterile prior to the hysterectomy and state the cause of the sterility;

(c) When there is a life-threatening emergency situation that requires a hysterectomy in which the physician determines that prior acknowledgment is not possible, the physician performing the hysterectomy must certify in writing that the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible and describe the nature of the emergency.

(4) In cases of retroactive eligibility:

(a) The physician who performs the hysterectomy must certify in writing one of the following:

(A) The woman was informed before the operation that the hysterectomy would make her permanently incapable of reproducing;

(B) The woman was previously sterile and state the cause of the sterility; or

(C) The hysterectomy was performed because of a life-threatening emergency situation in which prior acknowledgment was not possible and describe the nature of the emergency.

(b) Additional supplies of the Hysterectomy Consent form (OMAP 741) may be obtained through the DHS Distribution Center.

(5) Do not use the Consent to Sterilization form (OMAP 742) for hysterectomies.

(6) Mail a copy of the Hysterectomy consent form to OMAP-HFO, Claims Management.

(7) Do not submit a copy of the Hysterectomy consent form with the claim.

(8) Not Covered/Bundled/Require Authorization — Table 0760.

[ED. NOTE: Tables referenced in this rule are available from the Agency.]

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0780

Maternity Care and Delivery

(1) Use Evaluation and Management codes when providing three or fewer antepartum visits.

(2) OMAP unique codes MCD01, MCD02, MCD03, and MCD04 have been deleted.

(3) For births performed in a clinic or home setting, use CPT codes that most accurately describe the services provided. HCPCS supply code S8415 may be billed in addition to the CPT procedure code. Code S8415 includes all supplies, equipment, staff assistance, birthing suite, newborn screening cards, topicals and local anesthetics. Bill medications (except topicals and local anesthetics) with HCPCS codes that most accurately describe the medications.

(4) For labor management only, bill 59899 and attach a report.

(5) For multiple births, bill the highest level birth with the appropriate CPT code and the other births under the delivery only code. For example, for total OB with cesarean delivery of twins, bill 59510 for the first delivery and 59514 for the second delivery.

(6) Not Covered/Bundled/Require Authorization: 99360, Physician standby service, requiring prolonged physician attendance; each 30 minutes (e.g., operative standby, standby for frozen section, for cesarean/high risk delivery for monitoring EEG). Covered only for standby at cesarean/high risk delivery of newborn.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0800

Immunizations and Immune Globulins

(1) Use standard billing procedures for vaccines that are not part of the Vaccines for Children (VFC) Program.

(2) Synagis (palivizumab-rsv-igm) is covered only for high risk infants and children as defined by the American Academy of Pediatric guidelines. Use 90378 for Synagis.

(3) Vaccines for Children Program:

(a) The Vaccines for Children (VFC) Program was implemented by the Office of Medical Assistance Programs (OMAP) on April 1, 1996. Under this federal program, certain immunizations are free for clients ages 0 through 18. As a result, OMAP no longer reimburses the cost of vaccine serums covered by this federal program;

(b) Use the following procedures when billing immunizations included in the VFC Program:

(A) When the sole purpose of the visit is to administer a VFC immunization(s), the provider should bill the appropriate immunization procedure code(s) with modifier -26, or SL for each injection. Do not bill CPT code 90471 - 90474 or 99211;

(B) When the immunization is administered as part of an Evaluation and Management service (e.g., well-child visit) the provider should bill the appropriate immunization code with modifier -26, or SL for each injection. in addition to the Evaluation and Management code.

(c) The following immunization codes are included in the VFC Program for clients ages 0 through 18:

(A) 90632 (may be given up through age 20 if the series was initiated in the 18th year, but not completed);

(B) 90633;

(C) 90645;

(D) 90647;

(E) 90648;

(F) 90657;

(G) 90658;

(H) 90669;

(I) 90700;

(J) 90702;

(K) 90707;

(L) 90713;

(M) 90716;

(N) 90718;

(O) 90721 (use when 90700 and 90648 are given at the same time);

(P) 90723 (when available through the VFC program);

(Q) 90732 (only for high risk clients as defined by the Oregon Health Division);

(R) 90740;

(S) 90744;

(T) 90746 (may be given up through age 20 if the series was initiated in the 18th year, but not completed);

(U) 90747;

(V) 90748.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 4-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

410-130-0940

Ambulatory Surgical Center and Birthing Center Services

(1) Ambulatory Surgical Centers (ASC) and Birthing Centers (BC) must be licensed by the Oregon Health Division. ASC and BC services are items and services furnished by an ASC or BC in connection with a covered surgical procedure as specified in the Medical-Surgical Services guide or in the Dental Services guide. Reimbursement is made at all-inclusive global rates based on the surgical procedure codes billed.

(2) If the client has Medicare and Medicare does not allow the specific surgery in an ASC or BC then the surgery may not be performed in an ASC or BC.

(3) Global Rates include:

(a) Nursing services, services of technical personnel, and other related services;

(b) Any support services provided by personnel employed by the ASC or BC facility;

(c) The use by the client of the ASC's or BC's facilities (includes the operating room and recovery room);

(d) Drugs, biologicals, surgical dressings, supplies, splints, casts, appliances, and equipment (related to the provision of care);

(e) Diagnostic or therapeutic items and services (related to the surgical procedure);

(f) Administrative, record-keeping, and housekeeping items and services;

(g) Blood, blood plasma, platelets;

(h) Materials for anesthesia;

(i) Items not separately identified in section (4) of this rule.

(4) Items and Services Not Included in ASC or BC Global Rate:

(a) Practitioner services such as those performed by physicians, licensed physician assistants, nurse practitioners, certified nurse anesthetists, dentists, and podiatrists;

(b) The sale, lease, or rental of durable medical equipment to ASC or BC clients for use in their homes;

(c) Prosthetic devices;

(d) Ambulance services;

(e) Leg, arm, back and neck brace, or other orthopedic appliances;

(f) Artificial legs, arms, and eyes;

(g) Services furnished by a certified independent laboratory.

(5) ASCs and BCs will not be reimbursed for services that are normally provided in an office setting unless the practitioner has justified the medical appropriateness of using an ASC or BC through documentation submitted with the claim. Practitioner's justification is subject to review by OMAP. If payment has been made and the practitioner fails to justify the medical appropriateness for using an ASC or BC facility, the amount paid is subject to recovery by OMAP.

(6) Procedure Coding:

(a) For reduced or discontinued procedures, use CPT instructions and add appropriate modifiers.

(b) Attach a report to the claim when billing an unlisted code;

(c) For billing instructions regarding multiple procedures, see rule 410-130-0380.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03

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Adm. Order No.: OMAP 24-2003
Filed with Sec. of State: 3-26-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 1-1-03
Rules Amended: 410-141-0080, 410-141-0260, 410-141-0261, 410-141-0264
Subject: Administrative Rules govern Office of Medical Assistance Programs payment for health services provided to eligible clients. Rule 410-141-0080 is revised to establish a process to disenroll violent members from managed care plan enrollment. Rules 410-141-0260, 410-141-0261 and 410-141-0264 are revised to correct minor housekeeping errors.
Rules Coordinator: Darlene Nelson—(503) 945-6927

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 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 copayments for Covered Services as described in OAR 410-121-ohpe .

(vii) Continuous Disenrollment from Member's Service Area: A Member may be continuously disenrolled from their Service Area if:

(I) The member had been previously disenrolled in the same Service Area and for the reasons described in (2)(a)(A)(iii) above;

(II) The reason for continuous Disenrollment is the same as described in (2)(a)(A)(iii) above and the OMAP Member's behavior is such that a lay person would believe they are in danger, and any attempts to redirect the OMAP Member fail, OR, the OMAP Member is displaying or exhibiting threatening behavior with a weapon.

(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 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;

(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; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03

410-141-0260
Oregon Health Plan Prepaid Health Plan Complaint Procedures

(1) This rule will apply to all PHPs except MHOs. MHOs shall abide by the complaint requirements as stated in the MHO Agreement.

(2) FCHPs, DCOs, and CDOs shall have written policies and procedures that ensure that they meet the requirements of sections OAR 410-141-0260 to 410-141-0266.

(3) FCHPs, DCOs, and CDOs shall keep all information concerning an OMAP member's Complaint confidential as specified in OAR 410-141-0261.

(4) FCHPs, DCOs, and CDOs must have a written procedure to handle complaints from OMAP members or their representatives. At a minimum, the procedure must meet the requirements of OAR 410-141-0261.

(5) FCHPs, DCOs, and CDOs shall afford OMAP Members the full use of the Complaint procedures, and shall cooperate if the OMAP Member decides to pursue a remedy through the Administrative Hearing process.

(6) Hearing requests made outside of the Complaint process or without previous use of the Complaint process shall be reviewed by the FCHP, DCO, or CDO through the FCHP's, DCO's, or CDO's Complaint process upon notification by OMAP as provided for in OAR 410-141-0264.

(7) Under no circumstances may FCHP, DCO, or CDO discourage an OMAP Member's use of the Administrative Hearing process. The FCHP, DCO, or CDO may, however, explain to the OMAP Member the potential benefits of using the Complaint procedure.

(8) Neither implementation of an OMAP hearing decision nor an OMAP Member's request for a hearing may be a basis for a request by the FCHP, DCO, or CDO for Disenrollment of an OMAP Member.

(9) FCHPs, CDOs, and CDOs shall make available a supply of blank Complaint forms (OMAP 3001) in all plan administrative offices and in those medical/dental offices where staff have been designated by the FCHP, DCO, or CDO to respond to Complaints.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.725
Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03

410-141-0261
Complaint Procedures

(1) FCHPs, DCOs, and CDOs shall have written procedures for the receipt, disposition and documentation of all Complaints from OMAP Members. The FCHPs', DCOs', and CDOs' written procedures for handling complaints, shall, at a minimum:

(a) Address how contractor will accept, process and respond to all Complaints from OMAP Members or their Representatives;

(b) Address the resolution of all Complaints which OMAP Members identify as needing resolution;

(c) Describe how the FCHP, DCO, or CDO informs OMAP Members, both orally and in writing, about FCHP's, DCO's, or CDO's Complaint procedures. Information provided to the member shall include at least:

(A) Written material describing the Complaint process; and

(B) Assurance in all written, oral, and posted material of OMAP Member confidentiality in the Complaint process.

(d) Designate the FCHP, DCO, or CDO staff member(s) or a designee who will be responsible for receiving, processing, directing, and responding to Complaints;

(e) Ensure that clients who indicate dissatisfaction or concern are informed of their right to file a Complaint and how to do so;

(f) Include a requirement for a log to be maintained by the FCHP, DCO, or CDO that is in compliance with OAR 410-141-0266.

(2) The FCHP, DCO, or CDO shall assure members that complaints are handled in confidence and shall safeguard the client's right to confidentiality of information about the Complaint as follows:

(a) FCHPs, DCOs, and CDOs shall, implement and monitor written policies and procedures that ensure that all information concerning an OMAP Member's Complaint is kept confidential, except that OMAP has a right to this information without a signed release from the OMAP Member;

(b) If an OMAP Member makes a Complaint or files a hearing request, and wishes the Complaint to be resolved, FCHPs, DCOs, and CDOs shall ask the OMAP Member to consent verbally to the release of information regarding the Complaint to individuals who are directly involved in the Complaint:

(A) Before any information related to the Complaint is released, the FCHP, DCO, or CDO shall have a release of information documented in the Complaint file;

(B) FCHPs, DCOs, and CDOs shall inform the OMAP Member if failure to consent may make it impossible to resolve the Complaint;

(C) FCHPs' DCOs' and CDOs' written procedures shall describe how complaints will be resolved and reviewed should OMAP Member decline to provide a release;

(D) An OMAP Member's consent to release information related to the Complaint does not constitute consent to release medical information unrelated to the Complaint.

(3) The FCHP, DCO, or CDO shall assure that a member's expression of dissatisfaction, or Complaint is recognized by FCHP, DCO, or CDO staff as follows:

(a) The expression may be in whatever form of communication or language that is used by the OMAP Member or the Member's Representative:

(A) An OMAP Member may relate any incident or concern to a practitioner or other staff person by indicating or expressing dissatisfaction or concern or by stating this is a Complaint that needs resolution;

(B) If the OMAP Member indicates dissatisfaction or concern, the practitioner or staff person shall advise the OMAP Member that he or she may make a Complaint using the FCHP's, DCO's, or CDO's Complaint process.

(b) A Complaint requires resolution as follows:

(A) The OMAP Member or the Member's Representative identifies the expression of dissatisfaction as a Complaint which must be addressed by the FCHP, DCO, or CDO;

(B) The OMAP Member or Member's Representative's intent is unclear to the FCHP, DCO, or CDO or the FCHP's, DCO's, or CDO's designee. The FCHP, DCO, or CDO or the FCHP's, DCO's, or CDO's designee shall confirm that the expression of dissatisfaction is a Complaint in need of resolution by asking the OMAP Member or the Member's Representative if the expression of dissatisfaction is something that needs resolution;

(C) Complaints may also be termed concerns, problems, or issues by the OMAP Member or the Member's Representative and may or may not be identified by the Member or the Member's Representative as needing resolution.

(4) The FCHPs', DCOs', and CDOs' procedures shall provide for the resolution of complaints as follows:

(a) The practitioner or staff person shall either resolve the Complaint and communicate the Complaint and its resolution to the FCHP's, DCO's, CDO's; or direct the OMAP Member to the FCHP's, DCO's, or CDO's staff person designated for receiving Complaints, as identified in FCHP's, DCO's, or CDO's OMAP Member Handbook;

(b) If an OMAP Member makes a Complaint to the FCHP's, DCO's, or CDO's staff person designated for receiving Complaints, the staff person shall notify the OMAP Member that the OMAP Member has the right to make a Complaint either orally or in writing;

(c) If the OMAP Member does not wish to attempt to resolve the Complaint through the use of the FCHP's, DCO's, or CDO's internal Complaint procedure, the staff person shall notify the OMAP Member that the member has the right to seek resolution through another process within the plan or through a state process, such as the Administrative Hearing process or OMAP Ombudsman;

(d) If the OMAP Member chooses to pursue the Complaint orally or in writing through FCHPs', DCOs', and CDOs' internal Complaint procedure, shall within 5 working days from the date either:

(A) Make a decision on the Complaint; or

(B) Notify the OMAP Member in writing that a delay in FCHP's, DCO's, or CDO's decision of up to 30 calendar days from the date the Complaint was received by the FCHP, DCO, or CDO is necessary to resolve the Complaint. Contractor shall specify the reasons the additional time is necessary.

(5) Complaints concerning denial of service or service coverage shall be handled as Complaints as described in this section. In addition, FCHPs, DCOs, or CDOs shall immediately issue notice and provide OMAP Members with a notice of Hearing Rights (OMAP 3030) and an Administrative Hearing Request (AFS 443) as described in OAR 410-141-0263, upon receipt of a Complaint concerning denial of service or service coverage.

(6) The FCHPs', DCOs', and CDOs' staff person, who is designated to receive complaints, shall begin to establish the facts concerning the Complaint, upon receipt of the Complaint regardless of whether the OMAP Member seeks an Administrative Hearing and/or elects the Complaint process.

(7) FCHPs', DCOs', and CDOs' decision shall be communicated to the OMAP Member orally or in writing no later than 30 calendar days from the date of receipt of the Complaint:

(a) An oral decision shall address each aspect of the client's Complaint and explain the reason for the contractor's decision. The oral decision shall include informing the OMAP Member of his/her rights to an Administrative Hearing;

(b) A written decision must be made if the Complaint was received in writing, or if the Complaint involves a denial of services or service coverage:

(A) The written decision on the Complaint shall review each element of the OMAP Member's Complaint and address each of those concerns specifically, including the reasons for the FCHP's, DCO's, or CDO's decision;

(B) The written decision shall have both the Notice of Hearing Rights (OMAP 3030) and the AFS 443, Hearing Request, attached;

(C) A written decision which involves denial of service or service coverage must conform to the requirements for notice in OAR 410-141-0263.

(8) All Complaints made to the FCHP's, DCO's, or CDO's staff person designated to receive Complaints shall be entered into a log and addressed in the context of Quality Assurance activity (OAR 410-141-0200) as required in OAR 410-141-0266.

(9) All Complaints that the member chooses to resolve through another process, and that the FCHP, DCO, or CDO is notified of, shall be noted in the Complaint log.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03

410-141-0264
Administrative Hearings

(1) Individuals who are or were OMAP Members at the time an action is taken are entitled to an Administrative Hearing by OMAP regarding the action by an FCHP, DCO, or CDO to deny services, payment of a claim, or to terminate, discontinue or reduce a course of treatment. OMAP Members are also entitled to an Administrative Hearing for issues related to their eligibility for OHP benefits, or issues related to enrollment in FCHPs, DCOs, or CDOs. Client hearings are governed by OAR 410-121-1860 and following:

(a) A written hearing request must be received by the Hearings Unit at OMAP not later than the 45th day following the date of the Notice of Action or written decision regarding a complaint;

(b) If the action involves a Notice of Action or decision concerning a complaint that involved continuation of services, and the OMAP Member or OMAP Member's Representative wishes to have services continued while the hearing issue is being resolved, the OMAP Member or OMAP Member's Representative must request a hearing before the effective date of the intended action or within 10 calendar days after the notice of action or written complaint decision was mailed or given to the OMAP Member or OMAP Member's Representative.

(2) The OMAP Representative shall review the Administrative Hearing Requests, documentation related to the Hearing issue, and computer records to determine whether the claimant or the person for whom the request is being made is or was an OMAP Member at the time the action was taken, whether the hearing request was timely (requested within 45 calendar days of the Notice of Action, or the decision about a complaint) and whether continuation of benefits or services has been requested.

(3) The hearing request (AFS 443) shall be referred to the Central Hearings Panel and a hearing officer requested. OMAP Member hearings are governed by OAR 410-120-1860 and following, except to the extent OMAP rules apply.

(4) A final order must be issued or the case otherwise resolved by OMAP not later than 90 days following OMAP's receipt of the request for hearing. Delay due to a postponement or continuance granted at the OMAP Member or OMAP Member Representative's request or with the consent of the OMAP Member or the OMAP Member's Representative shall not be counted in computing the time limit. The final order is the final decision of OMAP.

(5) FCHPs, DCOs, and CDOs shall immediately transmit to OMAP any hearing request submitted on behalf of a client.

(6) If an Administrative Hearing is requested by an OMAP Member, the FCHP, DCO, or CDO shall cooperate in the hearing process and shall make available, as determined necessary by OMAP, all persons with relevant information, including the staff person who attempted resolution of the complaint. The FCHP, DCO, or CDO shall also provide all pertinent files and medical or dental records, as well as the results of the review by the FCHP, DCO, or CDO of the hearing request and any attempts at resolution by the contractor.

(7) If the OMAP Member files a request for an Administrative Hearing, OMAP shall immediately notify the FCHP, DCO, or CDO. The FCHP, DCO, or CDO shall review the Hearing Request as a Complaint as described below.

(8) OMAP Members may request a delay in the Administrative Hearing in writing. This delay shall not relieve the FCHP, DCO, or CDO of resolving the compliant that was referred to them by the Hearings Representative within 30 days.

(9) FCHPs, DCOs, and CDOs shall review the Hearing Request, which has not been previously received or reviewed as a complaint, using the FCHP's, DCO's, or CDO's Complaint process as follows:

(a) The Complaint shall be reviewed immediately and shall be resolved, if possible, within 30 days of receipt of the request for hearing in OMAP;

(b) The FCHP's, DCO's, or CDO's decision shall be in writing and shall be provided to OMAP, and to the OMAP Member;

(c) If the Complaint is not resolved within 30 days, or the member does not accept resolution proposed by the FCHP, DCO, or CDO on the hearing request, the FCHP, DCO, or CDO shall provide the OMAP Hearings Representative with all pertinent material and documentation within 30 days from the date of the transmittal of the request for hearing from OMAP. Complaints are defined in OAR 410-141-0000, Definitions.

(10) If the OMAP Member chooses to use the FCHP's, DCO's, or CDO's Complaint procedure as well as the Administrative Hearing process, the FCHP, DCO, or CDO shall ensure that the Complaint procedure is completed within 30 days of receipt of the Complaint, and the records sent to the OMAP Hearings Unit by the 30th day.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: 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 24-2003, f. 3-26-03 cert. ef. 4-1-03

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Rules Adopted: 410-001-0100, 410-001-0110, 410-001-0120, 410-001-0130, 410-001-0140, 410-001-0150, 410-001-0160, 410-001-0170, 410-001-0180, 410-001-0190, 410-001-0200
Subject: The purpose of these rules is to set forth the contract and administrative requirements related to individuals or entities to be treated as Trading Partners and Electronic Data Interchange (EDI) Submitters with the Department of Human Services. These rules govern the conduct of all EDI transactions with DHS.

These rules also set forth DHS EDI transaction requirements for purposes of the Health Insurance Portability and Accountability Act of 1996, 42 USC - 1320d-8, Public Law 104-191, sec. 262 and sec. 264, and the implementing HIPAA Transaction Rule 45 CFR part 162. The Transaction Rule permits the use of a Trading Partner Agreement ('TPA") to establish the parameters under which Covered Entities conduct Electronic Data Interchange Transactions.
Rules Coordinator: Stephanie Holmes—(503) 945-6084

410-001-0100
Definitions

For purposes of these rules, the following terms shall have the meanings set forth below. Capitalized terms used in these Electronic Data Interchange (EDI) Rules have the same meaning as those terms are defined in this section.

(1) Access. The ability or the means necessary to read, write, modify or communicate Data or information or otherwise use any Information System resource.

(2) Agents. Third parties or organizations that contract with a Trading Partner to perform designated services in order to facilitate a Transaction or the conduct of other business functions on behalf of the Trading Partner.

(a) Examples of Agents include billing agents, including but not limited to the following: claims clearinghouses, vendors, billing services, service bureaus, and accounts receivable management firms.

(b) Agents may also include clinics, group practices and facilities, including the following: an employer of a Provider, if the Provider is required as a condition of employment to turn over his fees to the employ-

er; the facility in which the service is provided, if the Provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if the Provider has a contract under which the organization submits the claim.

(c) Agents may also include EDI Submitters as that term is defined in these DHS EDI rules.

(3) Allied Agencies. Local and regional Allied Agencies include the following: local Mental Health Authority; Community Mental Health Programs; Oregon Youth Authority; Department of Corrections; local Health departments; schools; education service districts; developmental disability service programs; area agencies on aging; federally recognized American Indian tribes; and such other governmental agencies or regional authorities that have a Contract (including an interagency agreement, or an intergovernmental agreement, or a grant agreement, or an agreement with an American Indian tribe pursuant to ORS 190.110) with DHS to provide for the delivery of services to Covered Individuals and that requests to be a Trading Partner with DHS in the conduct of EDI in relation to the Contract.

(4) ANSI. American National Standards Institute.

(5) Centers for Medicare and Medicaid Services ("CMS"). CMS is the federal agency charged with the administration of the Medicare and Medicaid programs within the U.S. Department of Health and Human Services and also charged with implementation of the HIPAA Transaction Rule.

(6) Companion Guide. DHS's business-specific instructions describing the Transaction-specific information necessary to submit a Data Transmission and have it be successfully processed.

(7) Confidential Information. Information relating to Covered Individuals (as defined herein) which is exchanged by and between DHS, the Provider, Prepaid Health Plan or Allied Agency and/or Agents for various business purposes, but which is protected from disclosure to unauthorized persons or entities by applicable state and federal statutes such as ORS 344.600, 410.150, 411.320, 418.130, or the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and its implementing regulations, which statutes and regulations shall hereinafter be collectively referred to as "Privacy Statutes and Regulations".

(8) Contract. A specific written agreement between DHS and a Provider, Prepaid Health Plan or Allied Agency that provides, or manages the provision of, services, goods or supplies to Covered Individuals and in the provision of which DHS and the Provider, Prepaid Health Plan or Allied Agency may exchange Data (as defined herein). A Contract specifically includes, without limitation, an OMAP Provider Enrollment Agreement, a Fully Capitated Heath Plan Managed Care Contract, a Dental Care Organization Managed Care Contract, a Mental Health Organization Managed Care Contract, a Chemical Dependency Organization Managed Care Contract, a County Financial Assistance Agreement, or any other applicable written agreement, interagency agreement, intergovernmental agreement, or grant agreement between DHS and Provider, Prepaid Health Plan or Allied Agency.

(9) Covered Individuals. Individual persons who are eligible for payment of certain services or supplies provided to them or their eligible dependents by or through a Provider, Prepaid Health Plan or Allied Agency (as defined herein) under the terms, conditions, limitations and exclusions of a Contract applicable to a governmental program and for which DHS processes or administers Data Transmissions.

(10) Data. A formalized representation of specific facts or concepts suitable for communication, interpretation, or processing by people or by automatic means.

(11) Data Transmission. The transfer or exchange of Data between DHS and an EDI Submitter by means of an Information System (as defined herein) which is compatible for that purpose, and including without limitation, EDI, ERA, or EMC (all as defined herein) transmissions, pursuant to the terms and conditions set forth in a Trading Partner Agreement and these rules.

(12) Department of Human Services ("DHS"). The Oregon Department of Human Services or any of its divisions, programs or offices, including DHS Information Systems.

(13) Electronic Data Interchange ("EDI"). The exchange of business documents from application to application in a federally mandated format or (if no federal Standard has been promulgated) such other format as DHS shall designate.

(14) EDI Submitter. A person or entity authorized to establish the Electronic Media connection with DHS to conduct an EDI Transaction. An EDI Submitter may be the Trading Partner, or may be an Agent of the Trading Partner.

(15) Electronic Media. (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media includes, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

(16) Electronic Media Claims ("EMC"). An Electronic Media means of submitting claims or encounters for or in relation to payment of services or supplies provided by a Provider, Prepaid Health Plan or Allied Agency (as defined herein) to a Covered Individual.

(17) Electronic Remittance Advice ("ERA"). A document or electronic file containing information pertaining to the disposition of a specific claim for payment of services or supplies rendered to Covered Individuals (as defined herein) which are filed with DHS on behalf of the Covered Individual by Providers, Prepaid Health Plans or Allied Agencies (as defined herein). The documents include, without limitation, information such as the Provider name and address, Individual name, date of service, amount billed, amount paid, whether the claim was approved or denied, and if denied, the specific reason for the denial.

(18) Envelope. A control structure in a mutually agreed format for the electronic interchange of one or more encoded Data Transmissions either sent or received by the EDI Submitter or DHS.

(19) HIPAA Transaction Rule. The Standards for Electronic Transactions at 45 CFR Part 160 and 162 (2003) adopted by the U.S. Department of Health and Human Services to implement the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d et. seq ("HIPAA").

(20) Information System. An interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, information, data, applications, communications and trained personnel necessary for a successful Data Transmission.

(21) Lost or Indecipherable Transmission. A Data Transmission which is never received by or cannot be processed to completion by the receiving Party in the format or composition received because it is garbled or incomplete, regardless of how or why the message was rendered garbled or incomplete.

(22) Prepaid Health Plan. A managed health care, dental care, chemical dependency or mental health care organization that contracts with DHS on a case managed, prepaid, capitated basis under the Oregon Health Plan.

(23) Provider. An individual, facility, institution, corporate entity, or other organization which supplies or provides for the supply of services, goods or supplies to Covered Individuals pursuant to a Contract with DHS. The term "Provider" as used in these DHS EDI rules does not include Billing Providers as that term is used in the OMAP General Rules. OMAP Billing Providers are defined in these DHS EDI Rules as Agents (defined herein).

(24) Registered Transaction. Each type of Transaction (e.g., claims submission, eligibility inquiry, etc.) applicable to a Trading Partner must be registered with DHS before it can be tested or approved for transmission. Registration is initiated with an EDI Registration Form.

(25) Security Access Codes. Those alpha-numeric codes assigned to the EDI Submitter by DHS for the purpose of allowing access to DHS's Information System for the purpose of successfully executing Data Transmissions or otherwise carrying out the express terms of a Trading Partner Agreement and these rules.

(26) Source Documents. Documents or electronic files containing underlying Data which is or may be required as part of a Data Transmission with respect to a claim for payment of charges for medical services rendered or supplies provided to a Covered Individual, or with respect to any other Transaction. Examples of Data contained within a specific Source Document may include, without limitation, the following: Individual's name and identification number, claim number, diagnosis code for the services rendered, dates of service, service procedure description, applicable charges for the services rendered, the Provider's, Prepaid Health Plan's or Allied Agency's name and/or identification number and signature.

(27) Standard. A rule, condition or requirement describing the following information for products, systems or practices: (a) classification of

components; (b) specification of materials, performance, or operations; or (c) delineation of procedures.

(28) Standard Transaction. A Transaction that complies with the applicable Standard adopted by the U.S. Department of Health and Human Services (DHHS) to implement the HIPAA Transaction Rules.

(29) Transaction. The exchange of Data between DHS and its Trading Partner using Electronic Media to carry out financial or administrative activities.

(30) Trade Data Log. The complete written summary of Data and Data Transmissions exchanged between DHS and an EDI Submitter over the period of time a Trading Partner Agreement is in effect and, including, without limitation, sender and receiver information, the date and time of transmission and the general nature of the transmission.

(31) Trading Partner. A Provider, Prepaid Health Plan or Allied Agency (as defined herein) that has entered into a Trading Partner Agreement with DHS in order to satisfy all or part of its obligations under a Contract by means of EDI, ERA and/or EMC or any other mutually agreed means of electronic exchange or transfer of Data as provided for herein.

(33) Trading Partner Agreement ("TPA"). A specific written agreement between DHS and a Provider, Prepaid Health Plan or Allied Agency that governs the terms and conditions for EDI Transactions in the performance of obligations under a Contract. A Provider, Prepaid Health Plan or Allied Agency that has executed a TPA will be referred to herein as a Trading Partner in relation to those functions.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0110
Purpose

(1) The purpose of these rules is to establish a registration process and requirements applicable to individuals or entities that desire to be treated as Trading Partners or EDI Submitters with the Department of Human Services. These rules govern the conduct of all EDI Transactions with DHS.

(2) These rules also set forth DHS EDI Transaction requirements for purposes of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d - 1320d-8, Public Law 104-191, sec. 262 and sec 264, and the implementing HIPAA Transaction Rule. The HIPAA Transaction Rule permits the use of a Trading Partner Agreement ("TPA") to establish the parameters under which Covered Entities conduct Electronic Data Interchange ("EDI") Transactions. Where a federal HIPAA Standard has been adopted for an EDI Transaction, this rule should be construed to implement and not to alter the requirements of the HIPAA Transaction Rules.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0120
Registration Process

(1) EDI Registration is an administrative process governed by these EDI Transaction rules. The EDI Registration process is initiated by the submission of a Trading Partner Registration Agreement (TPA) by a Provider, Prepaid Health Plan or Allied Agency, including all requirements and documentation required by these EDI rules..

(2) Trading Partners Must Be DHS Providers, Prepaid Health Plans or Allied Agencies with a current DHS Contract. DHS will accept a TPA only from those individuals or entities who are Providers, Prepaid Health Plans or Allied Agencies that have a current Contract with DHS.

(a) DHS may receive and hold the TPA for individuals or entities that have submitted a Provider Enrollment Agreement or other pending Contract, subject to the satisfactory execution of a Contract.

(b) Termination, revocation, suspension or expiration of the Contract shall be deemed to result in the concurrent termination, revocation, suspension or expiration of the TPA without any additional notice. Contracts that are periodically renewed or extended do not require renewal or extension of the TPA unless there is a lapse of time between Contracts.

(c) Failure to identify a current DHS Contract as requested during the registration process will result in a rejection of the TPA. DHS will verify that the Contract numbers identified by a Provider, Prepaid Health Plan or Allied Agency are current Contracts.

(d) If Contract number or Contract status changes, a Trading Partner shall provide DHS with updated information within five (5) business days of the change in Contract status. If DHS determines that a valid Contract no longer exists, DHS shall discontinue EDI Transactions applicable for any time period in which the Contract no longer exists.

(3) Trading Partner Agreement. In order to register as a Trading Partner with DHS, a Provider, Prepaid Health Plan or Allied Agency must submit a signed TPA to DHS. Signing the TPA constitutes agreement by the Provider, Prepaid Health Plan or Allied Agency to comply with all DHS EDI Rules, OAR 410-001-0100 through 410-001-0200, and other DHS, state and federal laws and regulations applicable to the application for and conduct of EDI Transactions with DHS, and further constitutes Provider's, Prepaid Health Plan's or Allied Agency's agreement to ensure compliance by its Agents with such laws, rules, policies and procedures.

(4) Application for Authorization. In addition to the requirements of subsection (3) of this Rule, a Trading Partner must submit an Application for Authorization to DHS. The Application provides specific identification of and legal authorization from the Trading Partner for the EDI Submitter to conduct EDI Transactions on behalf of the Trading Partner.

(5) Trading Partner Agents. A Trading Partner may use Agents in order to facilitate the electronic transmission of Data. If Trading Partner will be using an Agent as the EDI Submitter, the Application for Authorization required under subsection (4) of this Rule shall identify and authorize the EDI Submitter and shall include the EDI Certification signed by the EDI Submitter before DHS may accept an electronic submission from, or send an electronic transmission to, such EDI Submitter. Submitting an Application for Authorization is not a guarantee that the EDI Submitter has been accepted by DHS to conduct EDI transactions.

(6) EDI Registration. In addition to the requirements of subsection (3) of this Rule, a Trading Partner shall also submit its EDI Registration Form. This form requires the Trading Partner or its authorized EDI Submitter to register the EDI Submitter and the name and type of EDI Transaction(s) they are prepared to conduct. Signature of the Trading Partner or authorized EDI Submitter is required on the EDI Registration Form. The Registration Form will also permit the Trading Partner to identify the individuals or EDI Submitter(s) who are authorized to submit or receive EDI Registered Transactions.

(7) Review and Acceptance Process. DHS shall review the documentation provided to determine compliance with sections (1) - (6) of this Rule. Submission of such information is not a guarantee that a TPA or an authorization of an EDI Submitter has been accepted by DHS. The information provided may be subject to verification by DHS. When DHS determines that the information complies with these EDI rules, DHS will notify the Trading Partner and EDI Submitter by email about any testing or other requirements applicable to place the Registered Transaction(s) into a production environment.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0130
Trading Partner as EDI Submitter

(1) Trading Partner may be EDI Submitter. Any registered Trading Partner that also qualifies as an EDI Submitter may submit his or her own EDI transactions directly to DHS. The Trading Partner will be referred to as the EDI Submitter when functioning in that capacity, and shall be required to comply with all terms and conditions of the these rules applicable to an EDI Submitter, except as expressly provided in subsection (3) of this Rule.

(2) Authorization and Registration Designating Trading Partner as EDI Submitter. Prior to acting as an EDI Submitter, the Trading Partner shall designate in the Application for Authorization that Trading Partner is the EDI Submitter who is authorized to send and/or receive Data Transmissions in the performance of EDI transactions. Trading Partner must complete the "Trading Partner Application for Authorization to Submit EDI Transactions" and the "EDI Submitter Information" required in the Application. Trading Partner shall also submit the EDI Registration Form identifying Trading Partner as the EDI Submitter in applicable required fields. The Trading Partner shall notify DHS of any material changes in the information no less than five (5) days prior to the effective date of such changes.

(3) EDI Submitter Certification Conditions Not Required. Where Trading Partner is acting as its own EDI Submitter, Trading Partner is not required to submit the EDI Submitter Certification Conditions in the Application for Authorization applicable to Agents.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0140
Trading Partner Agents as EDI Submitters

(1) Responsibility for Agents. If the Trading Partner uses the services of an Agent, including but not limited to an EDI Submitter, in any capacity in order to receive, transmit, store or otherwise process Data or Data Transmissions or perform related activities, the Trading Partner shall be fully responsible to DHS for any acts, failures or omissions of the Agent in providing said services as though they were the Trading Partner's own acts, failures or omissions.

(2) Notices Regarding EDI Submitter. Prior to the commencement of an EDI Submitter's services, the Trading Partner shall designate in the Application for Authorization, its specific EDI Submitter(s) that are authorized to send and/or receive Data Transmissions in the performance of EDI Transactions of the Trading Partner. Trading Partner must complete the "Trading Partner Authorization of EDI Submitter" and the "EDI Submitter Information" required in the Application. Trading Partner shall also submit the EDI Registration Form identifying and providing information about the EDI Submitter in applicable required fields. The Trading Partner or authorized EDI Submitter shall notify DHS of any material changes in the EDI Submitter authorization or information no less than five (5) days prior to the effective date of such changes.

(3) Authority of EDI Submitter. A Trading Partner shall authorize the actions that an EDI Submitter may take on behalf of Trading Partner. The Application for Authorization permits the Trading Partner to authorize which decisions may be made only by Trading Partner and which decisions are authorized to be made by the EDI Submitter. The EDI Submitter information authorized in the Application for Authorization will be recorded by DHS in an EDI Submitter profile. DHS may reject EDI Transactions from an EDI Submitter acting without authorization from the Trading Partner.

(4) EDI Submitter Certification Conditions. Each authorized EDI Submitter acting as an Agent of a Trading Partner shall execute and shall comply with the EDI Submitter Certification Conditions that are incorporated into the Application for Authorization. Failure to include the signed EDI Submitter Certification Conditions with the Application shall result in a denial of EDI Submitter authorization by DHS. Failure of an EDI Submitter to comply with the EDI Submitter Certification Conditions may result in termination of EDI Submitter registration for EDI Transactions with DHS.

(5) Responsibilities Regarding EDI Submitters. In addition to the requirements of section (1) of this Rule, the Trading Partner is responsible for ensuring that the EDI Submitter will make no unauthorized changes in the Data content of any and all Data Transmissions or the contents of an Envelope, and further that such EDI Submitter will take all appropriate measures to maintain the timeliness, accuracy, truthfulness, confidentiality, security and completeness of each Data Transmission. Furthermore, the Trading Partner further is responsible for ensuring that its EDI Submitter(s) are specifically advised of, and will comply in all respects with, the terms of these rules and any TPA.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0150
Testing

(1) When a Trading Partner or authorized EDI Submitter registers an EDI Transaction with DHS, DHS may require testing before authorizing the Transaction. Testing may include both third party compliance testing and business-to-business testing. An EDI Submitter must be able to demonstrate its capacity to send and/or receive each Transaction type for which it has registered. DHS will reject any EDI Transaction if the EDI Submitter either refuses or fails to comply with DHS testing requirements.

(2) Except as otherwise provided for by DHS, DHS may require its EDI Submitters to complete compliance testing, at the EDI Submitter's expense, for each Transaction type with a DHS selected third party testing firm. Use of the third party testing service allows DHS to efficiently manage the testing process by ensuring that each EDI Submitter has reached a standard level of readiness to send and receive compliant EDI Transactions before entering in to business-to-business testing.

(3) After successfully demonstrating the ability to sustain compliant third party testing and obtaining required documentation of successful completion of third party testing requirements for a specific Transaction type to DHS satisfaction, DHS may initiate business-to-business testing for that Transaction type.

(4) When business-to-business testing is completed to DHS satisfaction, DHS will notify the EDI Submitter that it will register and accept the Transaction(s) in the production environment. This notification authorizes the EDI Submitter to submit the registered EDI Transaction(s) to DHS for processing and response, as applicable. If there are any changes in the Trading Partner or EDI Submitter authorization, profile data or EDI Registration information on file with DHS, updated information shall be submitted to DHS as required in OAR 410-001-0190 of these Rules.

(5) Testing will be conducted using secure Electronic Media communications methods.

(6) The EDI Submitter may be required to re-test with DHS if DHS format changes or if the EDI Submitter format changes.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0160
Conduct of Transactions

(1) EDI Submitter Obligations. In addition to the obligations of the Trading Partner and/or Agent(s) set forth elsewhere in these rules, the EDI Submitter is responsible for the conduct of the EDI Transactions registered on behalf of the Trading Partner, including the following:

(a) Accuracy of EDI Transmission. The EDI Submitter shall take reasonable care to ensure that Data and Data Transmissions are timely, complete, accurate and secure, and shall take reasonable precautions to prevent unauthorized access to the Information System, the Data Transmission itself or the contents of an Envelope which is transmitted either to or from DHS pursuant to these rules. DHS will not correct or modify an incorrect Transaction prior to processing; such Transactions may be rejected and the EDI Submitter will be notified of the rejection.

(b) Re-transmission of Indecipherable Transmissions. Where there is evidence that a Data Transmission is a Lost or Indecipherable Transmission, the sending party shall make best efforts to trace and re-transmit the original Data Transmission in a manner which allows it to be processed by the receiving party as soon as practicable.

(c) Cost of Equipment. EDI Submitter and DHS shall bear their own Information System costs. EDI Submitter shall, at its own expense, obtain and maintain its own Information System. Furthermore, EDI Submitter shall pay its own costs for any and all charges related to Data Transmission under these DHS EDI rules and specifically including without limitation, charges for Information System equipment, software and services, charges for maintaining an electronic mailbox, connect time, terminals, connections, telephones, modems, and any applicable minimum use charges, and for translating, formatting, or sending and receiving communications over the electronic network to the electronic mailbox, if any, of DHS. DHS is not responsible for providing technical assistance in the processing of an EDI Transaction.

(d) Back-up Files. EDI Submitter shall maintain adequate Data archives and back-up files or other means sufficient to re-create a Data Transmission in the event that such re-creation becomes necessary for any purpose at any time. Such Data archives or back-up files shall be subject to the terms of these DHS EDI rules to the same extent as the original Data Transmission.

(e) Format of Transmissions. Except as otherwise provided herein, the EDI Submitter shall send and receive all Data Transmissions in the federally mandated format, or (if no federal Standard has been promulgated) such other format as DHS shall designate.

(f) Testing. EDI Submitter shall, prior to the initial Data Transmission and throughout the term of a TPA, test and cooperate with DHS in the testing of Information Systems as DHS considers reasonably necessary to ensure the accuracy, timeliness, completeness and confidentiality of each Data Transmission.

(2) Security and Confidentiality. In addition to the other obligations in these rules, EDI Submitter shall also be specifically obligated to do all of the following:

(a) To refrain from copying, reverse engineering, disclosing, publishing, distributing or altering any Data, Data Transmissions or the contents of an Envelope, except as necessary to comply with the terms of these rules or the TPA, or use the same for any purpose other than that for which the EDI Submitter was specifically given Access and authorization by DHS;

(b) To refrain from obtaining Access by any means to any Data, Data Transmission, Envelope or DHS's Information System for any purpose other than that which the EDI Submitter has received express authorization to receive Access. Furthermore, in the event that the EDI Submitter receives Data or Data Transmissions, which are clearly not intended for the receipt of the EDI Submitter, the EDI Submitter shall immediately notify DHS and make arrangements to return the Data or Data Transmission or re-transmit the Data or Data Transmission to DHS. After such re-transmission,

the EDI Submitter shall immediately delete the Data contained in such Data Transmission from its Information System;

(c) To install necessary security precautions to ensure the security of the Information System or records relating to the Information System of either DHS or the EDI Submitter when the Information System is not in active use by the EDI Submitter;

(d) To protect and maintain at all times the confidentiality of Security Access Codes issued by DHS to the EDI Submitter; and

(e) To provide special protection for security and other purposes, where appropriate, by means of authentication, encryption, the use of passwords or by other mutually agreed means. Unless otherwise provided in these DHS EDI rules, the recipient of a Data Transmission so protected shall use at least the same level of protection for any subsequent transmission of the original Data Transmission.

(3) DHS Obligations. In addition to the other obligations of DHS, which are set forth herein, DHS shall also do the following:

(a) Availability of Data. DHS shall, subject to the terms of these DHS EDI Rules, make available to the EDI Submitter by Electronic Media those types of Data and Data Transmissions which the EDI Submitter is authorized to receive.

(b) Notices Regarding Formats. DHS shall inform the EDI Submitter of acceptable formats in which Data Transmissions may be made and shall provide such notices to the EDI Submitter within reasonable time periods consistent with HIPAA Transaction Standards, if applicable, or at least thirty (30) days prior electronic notice of other changes in such formats.

(c) Security Access Codes. DHS shall arrange to provide the EDI Submitter with Security Access Codes which will allow the EDI Submitter access to DHS's Information System. It is expressly required by these rules that such Security Access Codes are strictly confidential and specifically subject, without limitation, to any and all of the restrictions contained in OAR 410-001-0170. Furthermore, DHS reserves the right to change the designated Security Access Codes at any time and in such manner as DHS in its sole discretion deems necessary. Furthermore, the release of Security Access Codes shall be limited to authorized electronic data personnel of EDI Submitter and DHS with a need to know.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0170
Confidentiality and Security

General Requirements. The Trading Partner and any EDI Submitter or other Agent(s) shall maintain adequate security procedures to prevent unauthorized Access to Data, Data Transmissions, Security Access Codes or the DHS Information System, and shall immediately notify DHS of any and all unauthorized attempts by any person or entity to obtain Access to or otherwise tamper with the Data, Data Transmissions, Security Access Code or the DHS Information System.

(1) Individually Identifiable Health Information. The Trading Partner and EDI Submitter or other Agent(s) are responsible for ensuring the confidentiality of Individually Identifiable Health Information, consistent with the requirements of the Privacy Statutes and Regulations, and shall take reasonable action to prevent any unauthorized disclosure of Confidential Information by the Trading Partner and any EDI Submitter or other Agent(s). The Trading Partner and EDI Submitter or other Agent(s) shall in their performance under these DHS EDI Rules, comply with any and all applicable Privacy Statutes and Regulations relating to Confidential Information (as defined in these rules).

(2) Notice of Unauthorized Disclosures. The Trading Partner and EDI Submitter will promptly notify DHS of any and all unlawful or unauthorized disclosures of Confidential Information that comes to its attention or to the attention of its Agent(s), and will cooperate with DHS in the event that corrective action is required by DHS.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0180
Record Retention and Audit

(1) Records Retention. The Trading Partner and EDI Submitter shall maintain, for a period of no less than seven (7) years from the date of its receipt complete, accurate and unaltered copies of any and all Source Documents associated with all Data Transmissions.

(2) Trade Data Log. The EDI Submitter shall establish and maintain a Trade Data Log which shall record any and all Data Transmissions taking place between the EDI Submitter and DHS during the term of a TPA. The Trading Partner and EDI Submitter will take necessary and reasonable steps to ensure that such Trade Data Log constitutes a current, truthful, accurate, complete and unaltered record of any and all Data Transmissions between the Parties, and shall be retained by each Party for no less than twenty-four (24) months following the date of the Data Transmission. The Trade Data Log may be maintained on Electronic Media or other suitable means provided that, if it is necessary to do so, the information contained in the Trade Data Log may be timely retrieved and presented in readable form.

(3) Right to Audit. The Trading Partner shall allow, and shall require any EDI Submitter or other Agent to allow, access to DHS, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, or its designees, and the U.S. Department of Health and Human Services, or its designees, to audit those relevant business records, Source Documents, Data, Data Transmissions, Trade Data Log or Information System of the Trading Partner and/or its Agents as necessary to ensure compliance with these DHS EDI Rules. Trading Partner shall allow, and shall require any EDI Submitter or other Agent to allow, Access by DHS or its designees to ensure that adequate security precautions have been made and are implemented by the Trading Partner and its EDI Submitter or other Agent(s) in order to prevent unauthorized disclosure of any Data, Data Transmissions or other information.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0190
Material Changes

(1) Changes in Any Material Information. Trading Partner shall submit an updated TPA, Application for Authorization or EDI Registration form to DHS within five (5) business days of any material changes in the information. A material change includes but is not limited to changes in address or email address, Contract number or Contract status (termination, expiration, extension), identification of authorized individuals of the Trading Partner or EDI Submitter, the addition or deletion of authorized Transactions, or any other change that may affect the accuracy of or authority for an EDI Transaction. DHS is authorized to act on Data Transmissions submitted by the Trading Partner and its EDI Submitter(s) based on information on file in the Application for Authorization and EDI Registration forms until an updated form has been received and approved by DHS. Trading Partner's signature or the signature of an authorized EDI Submitter is required to ensure that an updated TPA, Authorization or EDI Registration form is valid and authorized.

(2) Failure to submit a timely updated form may impact the ability of a Data Transaction to be processed without errors. Failure to submit a signed updated form may result in a rejection of a Data Transmission.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

410-001-0200
DHS System Administration

(1) No person or entity shall be registered to conduct an EDI Transaction with DHS except as authorized under these DHS EDI rules. Eligibility and continued participation as a Trading Partner or EDI Submitter in the conduct of Registered Transactions is conditioned on the execution and delivery of the documents required in these DHS EDI Rules, the continued accuracy of that information consistent with OAR 410-001-0190, and compliance with the requirements of these DHS EDI rules. The information disclosed by Trading Partner or any EDI Submitter may be subject to verification. Data, including Confidential Information, governed by these DHS EDI Rules may be used for purposes related to treatment, payment and health care operations and for the administration of programs or services by DHS.

(2) In addition to the requirements of subsection (1) of this Rule, in order to qualify as a Trading Partner:

(a) A person or entity must be a DHS Provider, Prepaid Health Plan or Allied Agency pursuant to a current valid Contract; and

(b) The Provider, Prepaid Health Plan or Allied Agency must have submitted an executed TPA and all related documentation, including the Application for Authorization that identifies and authorizes the EDI Submitter.

(3) In addition to the requirements of subsection (1) of this Rule, in order to qualify as an EDI Submitter:

(a) A Trading Partner must have identified the person or entity as an authorized EDI Submitter in the Application for Authorization.

(b) If the Trading Partner identifies itself as the EDI Submitter, the Application for Authorization must include the information required in the

"Trading Partner Authorization of EDI Submitter" and the "EDI Submitter Information."

(c) If the Trading Partner uses an Agent as the EDI Submitter, the Application for Authorization must include the information described in subsection (b) of this section and the signed EDI Submitter Certification.

(4) The EDI Registration process described in these DHS EDI rules provides DHS with essential profile information that may be used by DHS to confirm that the Trading Partner or EDI Submitter is not otherwise excluded or disqualified from submitting EDI Transactions to DHS.

(5) Nothing in these rules or a TPA prevents DHS from requesting additional information from a Trading Partner or EDI Submitter to determine their qualifications or eligibility for registration as a Trading Partner or EDI Submitter.

(6) DHS shall deny a request for registration as a Trading Partner Agreement or for authorization of an EDI Submitter or an EDI Registration if it finds any of the following:

(a) The Trading Partner or EDI Submitter has substantially failed to comply with the applicable administrative rules or laws; or

(b) The Trading Partner or EDI Submitter has been convicted of (or entered a plea of nolo contendere) a felony or misdemeanor related to a crime or violation of federal or state public assistance laws or Privacy Statutes or Regulations (as defined in these rules);

(c) The Trading Partner or EDI Submitter is excluded from participation in the Medicare program, as determined by the Secretary of Health and Human Services; or

(d) The Trading Partner or EDI Submitter fails to meet the qualifications as a Trading Partner or EDI Submitter.

(7) Failure to comply with the terms of these DHS EDI rules, a Trading Partner Agreement, or EDI Submitter Certification or failure of the Application or Certification to be accurate in any respect may also result in sanctions and/or payment recovery pursuant to the applicable DHS program Contract or DHS rule.

Stat. Auth.: ORS 409.050, 409.110
Stats. Implemented:
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03

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Adm. Order No.: OMAP 26-2003
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Rules Adopted: 410-014-0000, 410-014-0010, 410-014-0020, 410-014-0030, 410-014-0040, 410-014-0050, 410-014-0060, 410-014-0070
Subject: 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), 42USC 1320-d through 1320d-8, Pub L 104-191, sec.262 and 264, and the implementing HIPAA Privacy Rules, 45 CFR 160 and 164.
Rules Coordinator: Lynn Hanson—(503) 947-5247

410-014-0000
Privacy Definitions

(1) Administrative Hearing: An Administrative proceeding, whether conducted by the director, administrator, designated employee of an Oregon state agency, or an administrative hearing officer in a contested case hearing pursuant to Oregon law.

(2) Authorization: Permission by an Individual, or his/her Personal Representative(s) for the release or use of information. An "authorization" is a written document that gives DHS permission to obtain and use information from third parties for specified purposes or to disclose information to a third party specified by the Individual.

(3) Business Associate: An Individual or entity who performs on behalf of the Department any function or activity involving the Use or Disclosure of Protected Health Information (PHI) and is not a member of the Department's workforce.

(a) The definition of "function or activity" includes: claims processing or administration, data analysis, utilization review, quality assurance, billing, legal, actuarial, accounting, consulting, data processing, management, administrative, accreditation, financial services and similar services for which the Department might contract are included, if access to PHI is involved.

(b) Business associates do not include Licensees or Providers unless the Licensee or Provider also performs some "function or activity" on behalf of DHS.

(4) Client: An Individual who requests or receives services from the Department of Human Services. Examples of Clients include but are not limited to: Applicants for or recipients of public assistance; minors and adults receiving protective services from DHS; Oregon Health Plan Members or Enrollees; persons who apply for or are admitted to a state training center or a state hospital or who are committed to the custody of the Department; children in the custody of the Department receiving services on a voluntary basis; and children committed to the custody of DHS.

(5) Client Information: Personal information relating to a DHS Client which DHS may maintain in one or more locations and in various forms, reports, or documents, including information that is stored or transmitted by electronic media.

(6) Collect / Collection: The assembling of personal information through interviews, forms, reports, or other information sources.

(7) Contract: The specific written agreement between DHS and a contractor setting forth the rights and obligations of the parties, including but not limited to contracts, licenses, agreements, interagency agreements, and intergovernmental agreements.

(8) Correctional Institution: Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. "Other persons held in lawful custody" includes juvenile offenders, adjudicated delinquents; aliens detained awaiting deportation, witnesses, or others awaiting charges or trial.

(9) Corrective Action: For purposes of DHS programs, an action that a DHS Business Associate must take to remedy a breach or violation of the Business Associate's obligations under the Business Associate agreement or other contractual requirement, including but not limited to reasonable steps that must be taken to cure the breach or end the violation, as applicable.

(10) Covered Entity: Health plans, health care clearinghouses, and health care providers who transmit any health information in electronic form in connection with a transaction that is subject to federal HIPAA requirements, as those terms are defined and used in the HIPAA regulations, 45 CFR Parts 160 and 164.

(11) Cure Letter: A letter sent by DHS to a Business Associate describing actions that the Business Associate will take to correct errors or defects that have occurred under a contract between the parties or other legal requirement.

(12) Department: The Department of Human Services (DHS).

(13) DHS: The Department of Human Services, also referred to as "The Department".

(14) DHS Workforce: Employees, volunteers, trainees, and other persons whose conduct, in the performance of work for DHS, is under the direct control of DHS, whether or not they are paid by DHS.

(15) Disclosure/ Disclose: The release, transfer, relay, provision of access to, or conveying of Client information to any individual or entity outside DHS.

(16) Employee: A public employee or officer for whom DHS is the appointing official.

(17) Health Care: Care, services or supplies related to the health of an individual. Health Care includes but is not limited to: preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling services, assessment, or procedure with respect to the physical or mental condition, or functional status of an individual, or that affects the structure or function of the body; and the sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(18) Health Care Operations: Any of the following activities of DHS to the extent that the activities are related to Health Care, Medicaid or any other Health care related programs, services, or activities administered by DHS:

(a) Conducting quality assessment and improvement activities, including income evaluation and development of clinical guidelines.

(b) Population-based activities related to improving health or reducing Health Care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about Treatment alternatives; and related functions that do not include Treatment.

(c) Reviewing the competence of qualifications of Health Care professionals, evaluating practitioner and provider performance, health plan

performance, conducting training programs in which students and trainees in areas of Health Care learn under supervision to practice or improve their skills, accreditation, certification, licensing, or credentialing activities.

(d) Underwriting, premium rating, and other activities relating to the creation, renewal or replacement of a contract for Medicaid or Health Care related services.

(e) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs, and disclosure to the Medicaid Fraud Unit pursuant to 43 CFR 455.21.

(f) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating DHS, including administration, development or improvement of methods of payments or Health Care coverage.

(g) Business management and general administrative activities of DHS, including but not limited to the following:

(A) Management activities relating to implementation of and compliance with the requirements of HIPAA;

(B) Customer service, including the provision of data analysis;

(C) Resolution of internal grievances, including administrative hearings and the resolution of disputes from patients or enrollees regarding the quality of care and eligibility for services.

(D) Creating de-identified data or a limited data set.

(19) Health Oversight Agency: An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or grantees that is authorized by law to oversee the health care system or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. When performing such functions, DHS acts as a Health Oversight Agency for the purposes of these DHS Privacy Rules.

(20) HIPAA: Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d et seq, and the federal regulations adopted to implement the Act.

(21) Individual: The person who is the subject of information collected, used or disclosed by DHS.

(22) Individually Identifying Information: Any single item or compilation of information or data that indicates or reveals the identity of an Individual, either specifically (such as the individual's name or social security number), or that does not specifically identify the Individual but from which the Individual's identity can reasonably be ascertained.

(23) Information: Personal information relating to an individual, a participant, or a client of DHS

(24) Inmate: A person incarcerated in or otherwise confined in a correctional institution. An individual is no longer an inmate when released on parole, probation, supervised release, or otherwise is no longer in custody.

(25) Institutional Review Board (IRB): A specially constituted review body established or designated by an entity in accordance with 45 CFR Part 46 to protect the welfare of human subjects recruited to participate in biomedical or behavioral research.

(26) Law enforcement official: An officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to:

(a) Investigate or conduct an official inquiry into a potential violation of law; or

(b) Prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

(27) Licensee: A person or entity that applies for or receives a license, certificate, registration or similar authority from DHS to perform or conduct a service or activity or function.

(28) Minimum Necessary: The least amount of information, when using or disclosing confidential client information, that is needed to accomplish the intended purpose of the use, disclosure or request.

(29) Non-routine Disclosure: A disclosure of records that is not for a purpose for which it was collected

(30) Participant: Individuals participating in DHS population-based services, programs, and activities that serve the general population, but who do not receive program benefits or direct services received by a "Client". Examples of "Participants" include but are not limited to: A person whose birth certificate is recorded with DHS Vital Statistics; the subjects of public health studies, immunization or cancer registries, newborn screening, and other public health services; and Individuals who contact DHS hotlines or the ombudsman for general public information services.

(31)(a) Payment: Any activities undertaken by DHS related to an individual to whom Health Care or Payment for Health Care is provided in order to:

(A) Obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the Medicaid Program or other publicly funded Health Care services;

(B) Obtain or provide reimbursement for the provision of health care.

(b) Payment activities include:

(A) Determinations of eligibility or coverage (including coordination of benefits or the determination of cost sharing amounts), and adjudication of health benefit or Health Care claims;

(B) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(C) Billing, claims management, collection activities, obtaining payment under a Contract for reinsurance, and related Health Care data processing;

(D) Review of Health Care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(E) Utilization review activities, including pre-certification and preauthorization of services, concurrent and retrospective review of services; and

(F) Disclosure to consumer reporting agencies of any of the following information relating to collection of premiums or reimbursement: name and address; date of birth; Payment history; account number; and name and address of the health care provider or health plan.

(32) Personal Representative: A person who has authority, under applicable state law, to act on behalf of an Individual who is an adult or an emancipated minor in making decisions related to the program, service or activity that DHS provides to the Individual. If under applicable state law a parent, guardian, DHS or other person acting in loco parentis has authority to act on behalf of an Individual who is an unemancipated minor in making decisions related to the program, service or activity, DHS will treat that person or DHS as the Personal Representative of the Individual. DHS policy, procedure or rule may include requirements related to documentation of the authority of the Personal Representative.

(33) Privacy Rights: The specific actions that an Individual can take or request to be taken with regard to the Uses and Disclosures of their Information.

(34) Protected Health Information (PHI): Any Individually Identifiable Health Information, whether oral or recorded in any form or medium that is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. Any data transmitted or maintained in any other form or medium by covered entities, including paper records, fax documents and all oral communications, or any other form, i.e. screen prints of eligibility information, printed e-mails that have identified individual's health information, claim or billing information, hard copy birth or death certificate. Protected Health Information excludes: school records that are subject to the Family Educational Rights and Privacy Act; and employment records held in the DHS' role as an employer.

(35) Protected Information: Any participant or client information that DHS may have in its records or files that must be safeguarded pursuant to DHS policy. This includes but is not limited to "individually identifying information".

(36) Provider: A person or entity that may seek reimbursement from DHS as a provider of services to DHS Clients pursuant to a Contract. For purposes of the DHS Privacy Rules, reimbursement may be requested on the basis of claims or encounters or other means of requesting Payment.

(37) Psychotherapy Notes: Notes recorded in any medium by a Health Care Provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session, or a group, joint, or family counseling session, when such notes are separated from the rest of the individual's record. Psychotherapy notes excludes medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the Treatment plan, symptoms, prognosis, and progress to date.

(38) Public Health Agency: An agency, including DHS, or a person or entity acting under a grant of authority from or contract with DHS or such public agency, that performs or conducts one or more of the following

essential functions that characterize public health programs, services or activities:

(a) Monitor health status to identify community health problems;

(b) Diagnose and investigate health problems and health hazards in the community;

(A) Inform, educate, and empower people about health issues;

(B) Mobilize community partnerships to identify and solve health problems;

(C) Develop policies and plans that support individual and community health efforts;

(D) Enforce laws and regulations that protect health and ensure safety;

(E) Link people to needed personal health services and assure the provision of health care when otherwise unavailable;

(F) Assure a competent public health and personal health care workforce;

(G) Evaluate effectiveness, accessibility, and quality of personal and population-based health services; and

(H) Research for new insights and innovative solutions to health problems. DHS provides and conducts a wide range of public health programs, services and activities.

(39) Public Health Authority: For purposes of these DHS Privacy Rules, Public Health authority is intended to have the same meaning as the HIPAA Privacy rules, as follows: "An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate." When performing functions as a Public Health Agency, DHS acts as a Public Health Authority for purposes of these DHS Privacy rules.

(40) Research: A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.

(41) Required by Law: A duty or responsibility that federal or state law specifies that a person or entity must perform or exercise. Required by law includes but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of Information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to Health Care Providers participating in the program; and statutes or rules that require the production of Information, including statutes or rules that require such Information if payment is sought under a government program providing public benefits.

(42) Routine and Recurring Disclosure: The disclosure of records for a purpose that is compatible with the purpose for which the information was collected.

(43) Treatment, Payment, and Operation (TPO): Please refer to the separate definitions for Treatment, Payment, and Health care operations.

(44) Treatment: The provision, coordination, or management of Heath Care and related services by one or more Health Care Providers, including the coordination or management of Health Care by a Health Care Provider with the third party; consulting between Health Care Providers relating to a patient, or the referral of a patient for Health Care from one Health Care Provider to another.

(45) Use: The sharing of employment, application, utilization, examination, or analysis of information with DHS.

Stat. Auth.: ORS 409.010
Stats. Implemented:
Hist.: OMAP 26-2003, f. 3-31-03 cert. ef. 4-1-03

410-014-0010
Purpose of DHS Privacy Rules

(1) These DHS Privacy Rules set forth the general policies and procedures that govern the Collection, Use and Disclosure of Protected Information by DHS.

(a) Except as provided in subsection (c) of this section, State and federal statutes, rules, policies and procedures that govern the administration of DHS programs, services and activities continue to govern the Use and Disclosure of Protected Information in those DHS programs, services and activities.

(b) These DHS Privacy Rules also set forth DHS policies and procedures that govern the Use and Disclosure of Protected Health Information (PHI) for 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.

(c) In the event that it is not possible to comply with the requirements of both subsections (a) and (b) of this section, DHS will act in accordance with whichever federal or state law imposes a stricter requirement regarding the privacy or safeguarding of Information and which provides the greater protection or access to the Individual who is the subject of the information, unless one of the following applies:

(A) Public health. Nothing in these rules shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, birth, or death, public health surveillance, or public health investigation or intervention.

(B) Child abuse. Nothing in these rules shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of child abuse.

(C) State regulatory reporting. Nothing in these rules shall limit the ability of the State of Oregon or DHS to require a health plan to report, or to provide access to Information for management audits, financial audits, program monitoring, facility licensure or certification, or individual licensure or certification.

(2) DHS may collect, maintain, use, transmit, share and Disclose Information about any Individual to the extent authorized by law to administer DHS programs, services and activities.

(3) DHS will safeguard Information, provide information about DHS' privacy practices, and observe privacy rights in accordance with these DHS Privacy Rules, OARs 410-014-0000 through 410-014-0070.

(4) When DHS obtains information about Licensee or providers, DHS may use and disclose such information consistent with federal and state laws and regulations. Information regarding the qualifications of Licensees and Providers are public records.

(a) DHS will safeguard confidential information about Licensees and providers consistent with federal and state rules and regulations and DHS policies and procedures.

(b) When DHS obtains information about individuals that relates to determining payment responsibility when a Provider submits a request for payment to DHS, DHS will safeguard such information consistent with federal and state laws and regulations and DHS policies and procedures.

(c) DHS is authorized to review the performance of Licensees and Providers in the conduct of their health oversight activities and will safeguard information obtained about individuals obtained during those activities in accordance with federal and state laws and regulations and DHS policies and procedures.

Stat. Auth.: ORS 409.010
Stats. Implemented:
Hist.: OMAP 26-2003, f. 3-31-03 cert. ef. 4-1-03

410-014-0020
Uses and Disclosures of Client or Participant Information

(1) Uses and Disclosures with Individual Authorization. Except as otherwise permitted or required by law and consistent with these DHS Privacy Rules, DHS must obtain a completed and signed Authorization for release of Information from the Individual, or the Individual's Personal Representative, before obtaining or using Protected Information about an Individual from a third party or disclosing Protected Information about the Individual to a third party.

(a) Uses and Disclosures must be consistent with what the Individual has approved on the signed Authorization form approved by DHS.

(b) DHS must document and retain each signed Authorization form for a minimum of six years.

(c) An Individual can revoke an Authorization at any time. The revocation must be in writing and signed by the Individual, except that substance abuse treatment patients may orally revoke an Authorization to Disclose Information obtained from substance abuse treatment programs. No revocation shall apply to Information already released while the Authorization was valid and in effect.

(2) Uses and Disclosures without Authorization. Unless prohibited or limited by federal or state laws or rules applicable to the DHS program, service, or activity, DHS may Use or Disclose Protected Information without written Authorization in the following circumstances:

(a) Individual access. DHS may Disclose Information to Individuals who have requested Disclosure to themselves of their Information, consistent with OAR 410-014-0020(6).

(b) Required by law. DHS may Use or Disclose information without an Individual's Authorization if the law requires such Disclosure, and the

Use or Disclosure complies with, and is limited to, the relevant requirements of such law.

(c) Treatment, Payment, or Health Care Operations. DHS may Use or Disclose Information without Authorization:

(A) For its own Treatment, Payment, or Health Care Operations;

(B) To another Covered Entity or a Health Care Provider for the Payment activities of the entity that receives the Information;

(C) To another Covered Entity for the Health Care activities of that entity, if:

(i) Both that entity and DHS have or have had a relationship with the Individual who is the subject of the Information;

(ii) The Information pertains to such relationship; and

(iii) The Disclosure is for the purpose of:

(I) Conducting quality assessment and improvement activities, including outcome evaluation and development of clinical guidelines; population-based activities relating to improving health or reducing Health Care costs; protocol development; case management and care coordination; contacting Health Care Providers and patients with Information about Treatment alternatives; and related functions that do not include Treatment; or

(II) Reviewing the competence or qualifications of Health Care professionals; evaluating practitioner and Provider performance; conducting training programs in which students, trainees or practitioners practice or improve their skills as Health Care Providers; training of non-health care professionals; and accrediting, certifying, licensing, or credentialing activities; or

(III) Detecting Health Care fraud and abuse or for compliance purposes.

(d) Psychotherapy Notes. DHS may Use or Disclose Psychotherapy Notes:

(A) In training programs where students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills in group, joint, family, or individual counseling;

(B) When a Health Oversight Agency Uses or Discloses in connection with oversight of the originator of the Psychotherapy Notes; or

(C) To the extent authorized under state law to defend DHS in a legal action or other proceeding brought by the Individual.

(e) Public health activities. DHS may Disclose an Individual's Protected Information to appropriate entities or persons for governmental public health activities and purposes, including but not limited to:

(A) A governmental Public Health Authority that is authorized by law to collect or receive such Information for the purpose of preventing or controlling disease, injury, or disability. This includes, but is not limited to, reporting disease, injury, and vital events such as birth or death; and the conducting of public health surveillance, investigations, and interventions;

(B) An official of a foreign government agency that is acting in collaboration with a lawful governmental Public Health Authority;

(C) A governmental Public Health Authority, or other appropriate government authority that is authorized by law to receive reports of child abuse or neglect;

(D) A person subject to the jurisdiction of the federal Food and Drug Administration (FDA), regarding an FDA-regulated product or activity for which that person is responsible, for activities related to the quality, safety, or effectiveness of such FDA-regulated product or activity; and

(E) A person who may have been exposed to a communicable disease, or may be at risk of contracting or spreading a disease or condition, if DHS or another Public Health Authority is authorized by law to notify such person as necessary in conducting a public health intervention or investigation.

(F) As a Public Health Authority, DHS is authorized to Use and Disclose an Individual's Protected Information in all cases in which DHS is permitted to Disclose such Information for the public health activities listed above.

(G) Exception: Where state or federal law prohibits or restricts Use or Disclosure of Information obtained or maintained for public health purposes, DHS will deny such Use or Disclosure accordingly.

(f) Child abuse reporting and investigation. If DHS has reasonable cause to believe that a child is a victim of abuse or neglect, DHS may Disclose Protected Information to appropriate governmental authorities authorized by law to receive reports of child abuse or neglect (including reporting to DHS protective services staff if appropriate). If DHS receives Information as the child protective services agency, DHS is authorized to Use and Disclose the Information consistent with its lawful authority.

(g) Adult abuse reporting and investigation. If DHS has reasonable cause to believe that an adult is a victim of abuse or neglect, DHS may Disclose Protected Information, as required by law, to a government authority, including but not limited to a social service or protective services agencies (which may include DHS) authorized by law to receive such reports. If DHS receives Information as the social services or protective services agency, DHS is authorized to Use and Disclose the Information consistent with its lawful authority.

(h) Health oversight activities. DHS may Disclose Information without Authorization for health oversight activities authorized by law, including audits; civil, criminal, or administrative investigations, prosecutions, or actions; licensing or disciplinary actions; Medicaid fraud; or other activities necessary for oversight.

(i) Judicial and administrative proceedings. To the extent otherwise authorized or unless prohibited by applicable federal and state law, DHS may Disclose Information without Authorization for judicial or administrative proceedings as required by law, in response to an order of a court, a subpoena, a discovery request, or other lawful process.

(A) In any case in which federal or state law prohibits or restricts the Use or Disclosure of Information in an administrative or judicial proceeding, DHS shall assert the confidentiality of such confidential Information, consistent with rules and policies adopted by DHS applicable to the DHS program, service, or activity, to the presiding officer at the proceeding.

(B) If a court orders DHS to conduct a mental examination (such as in accordance with state law at ORS 161.315, 161.365, 161.370, 419B.352), or orders DHS to provide any other report or evaluation to the court such examination, report or evaluation shall be deemed to be "required by law" for purposes of HIPAA.

(C) If DHS has obtained Information in performing its duties as a Health Oversight Agency, Public Health Authority, protective service entity, or public benefit program, DHS may lawfully Use that Information in a hearing consistent with the other confidentiality requirements applicable to that program, service or activity.

(j) Law enforcement purposes. For limited law enforcement purposes and to the extent authorized by applicable federal or state law, DHS may report certain injuries or wounds; provide Information to identify or locate a suspect, victim, or witness; alert law enforcement of a death as a result of criminal conduct; and provide Information which constitutes evidence of criminal conduct on DHS premises.

(k) Deceased persons. These DHS Privacy Rules apply to Uses and Disclosures or Protected Information about deceased Individuals.

(A) DHS may Disclose Individual Information to a coroner or medical examiner for the purpose of identifying a deceased Individual, determining a cause of death, or other duties authorized by law. If DHS personnel are performing the duty or function of a coroner or medical examiner, DHS may Use an Individual's Information for such purposes.

(B) DHS may Disclose Individual Information to funeral directors, consistent with applicable law, as needed to carry out their duties regarding the decedent. DHS may also Disclose such Information prior to, and in anticipation of, the death.

(l) Organ or tissue donation. DHS may Disclose Individual Information to organ procurement organizations or other entities engaged in procuring, banking, or transplantation of cadaver organs, eyes, or tissue, for the purpose of facilitating transplantation.

(m) Research. DHS may Disclose Individual Information without Authorization for research purposes, as specified in OAR 410-014-0060, "Uses and Disclosures of Protected Information for research purposes and waivers".

(n) To avert a serious threat to health or safety. DHS may Disclose Individual Information if:

(A) DHS believes in good faith that the Information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and

(B) The report is to a person or persons reasonably able to prevent or lessen the threat, including to the target of the threat.

(o) Specialized governmental functions. DHS may Disclose Protected Information for other specialized government functions, including to authorized federal officials for the conduct of lawful intelligence, counterintelligence, and other national security activities that federal law authorizes.

(p) Correctional Institutions and law enforcement custody situations. DHS may Disclose Information to a Correctional Institution or a Law Enforcement Official having lawful custody of an Inmate or other person, for the limited purpose of providing Health Care or ensuring the health or safety of the Individual or of other Inmates.

(q) Emergency Treatment. In case of an emergency, DHS may Disclose Individual Information to the extent needed to provide emergency Treatment.

(r) Government entities providing public benefits. To the extent authorized by law, DHS may Disclose eligibility and other Information to governmental entities administering a government program providing public benefits.

(3) Authorization not required if opportunity to object given. When permitted by law, DHS may Use or Disclose an Individual's Information without Authorization if the Individual has been informed in advance and has been given the opportunity to either agree or to refuse or restrict the Use or Disclosure.

(a) These Disclosures are limited to Disclosure of Information to a family member, other relative, or close personal friend of the Individual, or any other person named by the Individual, subject to the following limitations:

(A) DHS may reveal only the Protected Information that directly relates to such person's involvement with the Individual's care or Payment for such care.

(B) DHS may Use or Disclose Protected Information for notifying (including identifying or locating) a family member, Personal Representative, or other person responsible for care of the Individual, regarding the Individual's location, general condition, or death.

(C) If the Individual is present for, or available prior to, such a Use or Disclosure, DHS may Disclose the Protected Information if DHS:

(i) Obtains the Individual's agreement;

(ii) Provides the Individual an opportunity to object to the Disclosure, and the Individual does not express an objection; or

(iii) Reasonably infers from the circumstances that the Individual does not object to the Disclosure.

(D) If the Individual is not present, or the opportunity to object to the Use or Disclosure cannot practicably be provided due to the Individual's incapacity or an emergency situation, DHS may determine, using professional judgment, that the Use or Disclosure is in the Individual's best interests.

(b) Exception: Oral permission to Use or Disclose Information for purposes described in subsection (a) of this section is not sufficient when the Individual is referred to or receiving substance abuse Treatment, mental health or vocational rehabilitation services. Written Authorization is required under those circumstances, unless Disclosure is otherwise permitted under 42 CFR Part 2 or ORS 179.505.

(c) Personal Representative: DHS must treat a Personal Representative as the Individual for purposes of these DHS Privacy Rules, except that:

(A) A Personal Representative must be authorized under state law to act on behalf of the Individual with respect to Use or Disclosure of Information. DHS may require a Personal Representative to provide a copy of the document or order authorizing the person to act on behalf of the individual.

(B) DHS may elect not to treat a person as a Personal Representative of an Individual if:

(i) DHS has a reasonable belief that the Individual has been or may be subjected to domestic violence, abuse or neglect by such person; or treating such person as the Personal Representative could endanger the Individual; and

(ii) DHS, in the exercise of professional judgment, decides that it is not in the best interest of the individual to treat the person as the individual's Personal Representative.

(4) Redisclosure. Unless otherwise prohibited by state and federal laws, Information held by DHS and authorized by the Individual for Disclosure may be subject to redisclosure and no longer Protected by these DHS Privacy Rules.

(a) Pursuant to federal regulations at 42 CFR part 2 and 34 CFR 361.38, DHS may not make further Disclosure of vocational rehabilitation and alcohol and drug rehabilitation Information without the specific written Authorization of the Individual to whom it pertains.

(b) Pursuant to ORS 433.045 and OAR 333-012-0270, DHS may not make further Disclosure of Individual Information pertaining to HIV/AIDS.

(c) Pursuant to ORS 659.700 through 659.720 and OAR 333-024-0500 through 333-024-0560, DHS may not make further Disclosure of an Individual's genetics Information without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general Authorization for the release of medical Information is not sufficient for this purpose.

(d) DHS is subject to the restrictions in ORS 179.505 regarding redisclosure of Information regarding Clients of publicly funded mental health or developmental disability Providers.

(5) Requests for Disclosures of Information on a Routine or Recurring basis. For Routine and Recurring Disclosures, DHS will:

(a) Determine who is requesting the Information, the purpose for the request, and if the request is compatible with the purpose for which the Information was collected;

(b) Confirm that the applicable DHS policies and program rules permit the requested Use and that the nature or type of Use recurs within the program; and

(c) Identify the kind and amount of Information that is necessary to respond to the request and provide the Information that is reasonably necessary to accomplish the intended purpose or the Use or Disclosure.

(6) Non-Routine Requests for Disclosure of Information. For Non-routine Disclosures, DHS will:

(a) Determine who is requesting the Information and the purpose for the request. If the request is not compatible with the purpose for which the Information was collected, DHS will apply non-routine Disclosure procedures;

(b) Determine which Information about the Individual is within the scope of the request, and what DHS policies and program rules apply to the purpose for which the Information was collected and to the requested Disclosure;

(c) Deny the request if the requested Information is exempt from Disclosure under the Oregon Public Records Law or these DHS Privacy Rules; and

(d) If Information is subject to Disclosure, limit the Information Disclosed to the Minimum Necessary amount of Information necessary to accomplish the purpose for which the Disclosure is sought.

(7) Verification of person or entity requesting Information. DHS may not Disclose Information about an Individual without first verifying the identity of the person or entity requesting the Information, unless the DHS Workforce member fulfilling the request already knows the person or has already so verified identity.

(8) Denial of requests for Information. Unless an Individual has signed an Authorization, or unless DHS can Disclose the requested Information about the Individual without a signed Authorization pursuant to these DHS Privacy Rules, DHS shall deny any request for Information about an Individual.

(9) Whistleblowers. DHS is not considered to have violated the HIPAA Privacy Rules if a DHS Workforce member or Business Associate Discloses an Individual's Protected Information provided that:

(a) The DHS Workforce member or Business Associate believes, in good faith, that DHS has engaged in conduct that is unlawful or that otherwise violates professional standards or DHS policy, or that the care, services, or conditions provided by DHS could endanger DHS staff, persons in DHS care, or the public; and

(b) The Disclosure is to a government oversight agency or Public Health Authority, or an attorney of a DHS Workforce member or Business Associate retained for the purpose of determining the legal options of the Workforce member or Business Associate with regard to the conduct alleged under section (9) above; and

(c) Nothing in this rule is intended to interfere with ORS 659A.200 to 659A.224 describing the circumstances applicable to Disclosures by DHS Workforce or Business Associates.

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410-014-0030
Client Privacy Rights

(1) General rights of Clients. DHS Clients have the right to, and DHS may not deny, the following:

(a) Access to their own Information, consistent with certain limitations pursuant to subsection (6) of this rule;

(b) Receive an accounting of Disclosures DHS has made of their Protected Health Information (PHI) for up to six years prior to the date of requesting such accounting pursuant to subsection (8) of this rule. However, DHS is not required to provide Information regarding Disclosures made prior to April 14, 2003, if DHS does not have such Information available, and certain limitations apply as specified in this rule.

(c) Submit complaints if they believe or suspect that DHS has improperly Used or Disclosed Information about them, or if they have concerns about the privacy policies of DHS pursuant to subsection (9) of this rule.

(2) Rights to request specific actions. Clients may ask DHS to take specific actions regarding the Use or Disclosure of their Information, and DHS may either approve or deny the request. Specifically, Clients have the right to request:

(a) That DHS restrict Uses and Disclosures of their Individual Information while carrying out Treatment, Payment activities, or Health Care Operations pursuant to subsection (4) of this rule;

(b) To receive Information from DHS by alternative means, such as mail, e-mail, fax, or telephone, or at alternative locations pursuant to subsection (5); and

(c) That DHS amend their Information that is held by DHS pursuant to subsection (7) of this rule.

(3) DHS Notice of Privacy Practices. Clients have the right to receive adequate notice from DHS of DHS privacy practices.

(a) DHS will provide each Client with a notice of DHS privacy practices that describes the duty of DHS to maintain the privacy of Protected Information and includes a description that clearly informs the Client of the types of Uses and Disclosures DHS is permitted or required to make;

(b) Whenever their is a material change in DHS privacy practices, DHS will revise the notice of privacy practices and make the revised notice available to all Clients. Any such changes to DHS privacy practices will apply to Information DHS already has as well as to any Information DHS receives in the future;

(c) DHS will post a copy of the DHS notice of privacy practices for public viewing at each DHS worksite and on the DHS website; and

(d) DHS will give a paper copy of the DHS notice of privacy practices to any person upon request.

(4) Right to request restrictions on Uses or Disclosures. Clients have the right to request restrictions on the Use or Disclosure of their Information.

(a) DHS may deny the Client's request or limit its agreement to restrict within the following provisions:

(A) DHS will not agree to restrict Uses or Disclosures of Information if the restriction would adversely affect the quality of the Client's care or services.

(B) DHS cannot agree to a restriction that would limit or prevent DHS from making or obtaining payment for services.

(b) DHS may not deny a Client's request for restriction of records of alcohol and drug Treatment or records relating to vocational rehabilitation services.

(c) DHS will document the Client's request, and the reasons for granting or denying the request, in the Client's hard-copy or electronic DHS case record file.

(d) If the Client needs emergency Treatment and the restricted Protected Information is needed to provide such Treatment, DHS may Use, or Disclose the restricted Protected Information to a Provider, for the limited purpose of providing Treatment. However, once the emergency situation subsides DHS will ask the Provider not to redisclose the Information.

(e) DHS may terminate its agreement to a restriction if:

(A) The Client agrees to or requests the termination in writing; or

(B) The Client orally requests or agrees to the termination, and DHS documents the oral request or agreement in the Client's DHS case record file; or

(C) With or without the Client's agreement, DHS informs the Client that DHS is terminating its agreement to the restriction. Information created or received while the restriction was in place shall remain subject to the restriction.

(5) Rights of Clients to request to receive information from DHS by alternative means or at alternative locations. DHS must accommodate reasonable requests by Clients to receive communications from DHS by alternative means, such as by mail, e-mail, fax, or telephone, and at an alternative location.

(a) The Client must specify the preferred alternative means or location.

(b) The Client may submit the request for alternative means or locations either orally or in writing.

(A) If the Client makes a request orally, DHS will document the request and ask for the Client's signature.

(B) If the Client makes a request by telephone or electronically, DHS will document the request and verify the identity of the requestor.

(c) DHS may terminate its agreement to an alternative location or method of communication if:

(A) The Client agrees to or requests termination of the alternative location or method of communication in writing or orally. DHS will document the oral agreement or request in the Client's DHS case record file.

(B) DHS informs the Client that DHS is terminating its agreement to the alternative location or method of communication because the alternative location or method of communication is not effective. DHS may terminate its agreement to communicate at the alternative location or by the alternate method if:

(i) DHS is unable to contact the Client at the location or by the method requested; or

(ii) The Client fails to respond to payment requests if applicable.

(6) Rights of Clients to access their Information. Clients have the right to access, inspect, and obtain a copy of Information on their own cases in DHS files or records, consistent with federal and state law.

(a) All requests for access will be made with the Client completing the approved DHS form.

(b) Clients may request access to their own Information that is kept by DHS by using a personal identifier such as the Client's name or DHS case number.

(c) If DHS maintains Information about the Client in a record that includes Information about other people, the Client is authorized to see Information only about himself or herself, except:

(A) If a person identified in the file is a minor child of the Client, and the Client is authorized under Oregon law to have access to the minor's Information or to act on behalf of the minor for making decisions about the minor's care, the Client may also obtain Information about the minor.

(B) If a person requesting information is recognized under Oregon law as a guardian or custodian of the Client and is authorized under Oregon law to have access to the Client's Information or to act on behalf of the Client for making decisions about the Client's services or care, DHS will release Information to the requestor.

(C) Under these special circumstances: the system in ORS 192.517(1), to protect and advocate the rights of Individuals with developmental disabilities under Part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the rights of Individuals with mental illness under the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), shall have access to all records, as defined in ORS 192.515, as provided in ORS 192.517.

(d) DHS may deny Clients access to their own Protected Health Information if federal law prohibits the disclosure. Clients have the right to access, inspect, and obtain a copy of health Information on their own cases in DHS files or records except for:

(A) Psychotherapy notes;

(B) Information compiled for Use in civil, criminal, or administrative proceedings;

(C) Information that is subject to the federal Clinical Labs Improvement Amendments of 1988, or exempt pursuant to 42 CFR 493.3(a)(2);

(D) Information that DHS believes, in good faith, can cause harm to the Client, Participant, or to any other person;

(E) Documents protected by attorney work-product privilege; and

(F) Information where release is prohibited by state or federal laws.

(e) DHS may deny a Client access to Protect Health Information (PHI), provided that DHS gives the Client a right to have the denial reviewed, in the following circumstances:

(A) A licensed Health Care professional or other designated staff has determined, in the exercise of professional judgment, that the Information requested may endanger the life or physical safety of the Client or another person; or

(B) The Protected Health Information makes reference to another person, and a licensed Health Care professional or other designated staff has determined, in the exercise of professional judgment, that the information requested may cause substantial harm to the Client or to another person; or

(C) The request for access is made by the Client's Personal Representative, and a licensed Health Care professional or other designated staff has determined, in the exercise of professional judgment, that allowing the Personal Representative to access the Information may cause substantial harm to the Client or to another person.

(f) If DHS denies access under subsection (6)(e) of this rule, the Client has the right to have the decision reviewed by a licensed Health Care professional or other designated staff not directly involved in making the original denial decision.

(A) DHS must promptly refer a Client's request for review to the designated reviewer.

(B) The reviewer must determine, within a reasonable time, whether or not to approve or deny the Client's request for access, in accordance with these DHS Privacy Rules.

(C) Based on the reviewer's decision, DHS must:

(i) Promptly notify the client in writing of the reviewer's determination; and

(ii) Take action to carry out the reviewer's determination.

(g) DHS must act on a Client's request for access no later than 30 days after receiving the request, except in the case of written accounts under ORS 179.505, which must be Disclosed within five (5) days.

(A) In cases where the Information is not maintained or accessible to DHS on-site, and does not fall under ORS 179.505, DHS must act on the Client's request no later than 60 days after receiving the request.

(B) If DHS is unable to act within these 30-day or 60-day limits, DHS may extend this time period by up to an additional 30 days, subject to the following:

(i) DHS must notify the Client in writing of the reasons for the delay and the date by which DHS will act on the request.

(ii) DHS will use only one such 30-day extension to act on a request for access.

(h) If DHS grants the Client's request, in whole or in part, DHS must inform the Client of the access decision and provide the requested access.

(A) If DHS maintains the same Information in more than one format (such as electronically and in a hard-copy file) or at more than one location, DHS need only provide the requested Information once.

(B) DHS must provide the requested Information in a form or format requested by the Client, if readily producible in that form or format. If not readily producible, DHS will provide the Information in a readable hard-copy format or such other format as agreed to by DHS and the Client.

(C) DHS may provide the Client with a summary of the requested Information, in lieu of providing access, or may provide an explanation of the Information if access has been provided, if:

(i) The Client agrees in advance; and

(ii) The Client agrees in advance to pay any fees DHS may impose, per subparagraph (6)(h)(F) of this rule.

(E) DHS must arrange with the Client for providing the requested access in a time and place convenient for the Client and DHS. This may include mailing the Information to the Client if the Client so requests or agrees.

(F) Fees: If a Client (or legal guardian or custodian) requests a copy of the requested Information, or of a written summary or explanation, DHS may impose a reasonable cost-based fee, limited to covering the following:

(i) Copying the requested Information, including the costs of supplies and the labor of copying;

(ii) Postage, when the Client has requested or agreed to having the Information mailed; and

(iii) Preparing an explanation or summary of the requested Information, if agreed to in advance by the Client.

(i) If DHS denies access, in whole or in part, to the requested Information, DHS must:

(A) Give the Client access to any other requested Client Information, after excluding the Information to which access is denied; and

(B) Provide the Client with a timely written denial. The denial must:

(i) Be sent or provided within the time limits specified in subsection (6)(g) of this rule;

(ii) State the basis of the denial, in plain language;

(iii) If the reason for the denial is due to danger to the Client or to another person, explain the Client's review rights as specified in subsection (6)(e) of this rule, including an explanation of how the Client may exercise these rights; and

(iv) Provide a description of how the Client may file a complaint with DHS, and if the Information is Protected Health Information (PHI), with the United States Department of Health and Human Services (DHHS), Office for Civil Rights, pursuant to section (9) of this rule.

(j) If DHS does not maintain the requested Information, in whole or in part, and knows where such Information is maintained (such as by a medical Provider, insurer, other public agency, private business, or other non-DHS entity), DHS must inform the Client of where to direct the request for access.

(7) Right of Clients to request amendment of their Information. Clients have the right to request that DHS amend Information about themselves in DHS files.

(a) For all requests for amendment, DHS will have the Client complete the approved DHS form.

(b) DHS is not obligated to agree to an amendment and may deny the request or limit its agreement to amend.

(c) DHS must act on the Client's request no later than 60 days of receiving the request. If DHS is unable to act within 60 days, DHS may extend this time limit by up to an additional 30 days, subject to the following:

(A) DHS must notify the Client in writing, within 60 days if receiving the request, of the reasons for the delay and the date by which DHS will act on the request; and

(B) DHS will use only one such 30-day extension for any such request.

(d) If DHS grants the request, in whole or in part, DHS must:

(A) Make the appropriate amendment to the Information or records, and document the amendment in the Client's DHS file or record;

(B) Provide timely notice to the Client that the amendment has been accepted, pursuant to the time limits under subsection (7)(c) of this rule;

(C) Seek the Client's agreement to notify other relevant persons or entities with whom DHS has shared or needs to share the amended Information; and

(D) Make reasonable efforts to inform, and to provide the amendment within a reasonable time to:

(i) Persons named by the Client as having received Information and who thus need the amendment; and

(ii) Persons, including Business Associates of DHS, that DHS knows have the Information that is the subject of the amendment and who may have relied, or could foreseeably rely, on the Information to the Client's detriment.

(e) Prior to any decision to amend a health or medical record, the request and any related documentation must be reviewed by the program's medical director, a licensed health care professional designated by the program administrator, or a DHS staff person involved in the Client's case.

(f) Prior to any decision to amend any other Information that is not a health or medical record, a staff person designated by DHS shall review the request and any related documentation.

(g) DHS may deny the Client's request for amendment if:

(A) DHS finds the Information to be accurate and complete;

(B) The Information was not originated by DHS, unless the Client provides a reasonable basis to believe that the originator of such Information is no longer available to act on the requested amendment;

(C) The Information is not part of DHS records; or

(D) The information would not be available for inspection or access by the Client, pursuant to subsection (6)(c) of this rule.

(h) If DHS denies the requested amendment, in whole or in part, DHS must provide the Client with a timely written denial. The denial must:

(A) Be sent within the time limits specified in subsection (7)(c) of this rule;

(B) State the basis for the denial, in plain language; and

(C) Explain the Client's right to submit a written statement disagreeing with the denial and how to file such a statement. If the Client files such a statement:

(i) DHS will enter the written statement into the Client's DHS case file;

(ii) DHS may also enter a DHS written rebuttal of the Client's written statement into the Client's DHS case record. DHS will send a copy of any such written rebuttal to the Client;

(iii) DHS will include a copy of the statement, and of any written rebuttal by DHS, with any future Disclosures of the relevant Information;

(iv) DHS will explain that if the Client does not submit a written statement of disagreement, the Client may ask that if DHS makes any further Disclosures of the relevant information, DHS will also include a copy of the Client's original request for amendment and a copy of the DHS written denial; and

(v) DHS will provide information on how the Client may file a complaint with DHS and, if the Information is Protected Health Information (PHI), with the United States Department of Health and Human Services (DHHS), Office for Civil Rights, pursuant to section (9) of this rule.

(8) Rights of Clients to request an accounting of Disclosures of Protected Health Information (PHI). Clients have the right to receive an accounting of Disclosures of PHI that DHS has made for any period of time, not to exceed six years, preceding the date of requesting the accounting.

(a) This right does not apply to Disclosures made prior to April 14, 2003.

(b) The accounting will include only PHI not previously authorized by the Client for Use or Disclosure, and will not include Information collected, Used, or Disclosed for Treatment, Payment, or Health Care Operations for that Client.

(c) For all requests for an accounting of Disclosures, DHS will have the Client complete the authorized DHS form (DHS 2096, "Accounting of Disclosures Request Form").

(d) DHS is not required to track and account for Disclosures that are:

(A) Authorized by the Client;

(B) Made prior to April 14, 2003;

(C) Made to carry out Treatment, Payment, or Health Care Operations;

(D) Made to the Client;

(E) Made to persons involved in the Client's care;

(F) Made as part of a limited data set in accordance with OAR 410-014-0070, "De-identification of Client Information and Use of limited data sets under data use agreements";

(G) Made for national security or intelligence purposes; or

(H) Made to Correctional Institutions or Law Enforcement Officials having lawful custody of an Inmate.

(e) The accounting must include, for each Disclosure:

(A) The date of the Disclosure;

(B) The name and address, if known, of the person or entity who received the Disclosed Information;

(C) A brief description of the Information Disclosed; and

(D) A brief statement of the purpose of the Disclosure that reasonably informs the Client of the basis for the Disclosure, or, in lieu of such statement, a copy of the Client's written request for a Disclosure, if any.

(f) If, during the time period covered by the accounting, DHS has made multiple Disclosures to the same person or entity for the same purpose, DHS may provide the required Information for only the first such Disclosure (DHS need not list the same identical information for each subsequent Disclosure to the same person or entity) if DHS adds:

(A) The frequency or number of disclosures made to the same person or entity; and

(B) The date of the most recent Disclosure during the time period for which the accounting is requested.

(g) DHS must act on the Client's request for an accounting no later than 60 days of receiving the request. If DHS is unable to act within 60 days, DHS may extend this time limit by up to an additional 30 days, subject to the following:

(A) DHS must notify the Client in writing, within 60 days of receiving the request, of the reasons for the delay and the date by which DHS will act on the request; and

(B) DHS will use only one such 30-day extension for any such request.

(h) Fees: DHS must provide the first requested accounting in any 12-month period without charge. DHS may charge the Client a reasonable cost-based fee for each additional accounting requested by the Client within the 12-month period following the first request, provided that DHS:

(A) Informs the Client of the fee before proceeding with any such additional request; and

(B) Allows the Client an opportunity to withdraw or modify the request in order to avoid or reduce the fee.

(i) DHS must document the Information required to be included in an accounting of Disclosures, as specified in subsection (8)(e) of this rule, and retain a copy of the written accounting provided to the Client.

(j) DHS will temporarily suspend a Client's right to receive an accounting of Disclosures that DHS has made to a Health Oversight Agency or to a Law Enforcement Official, for a length of time specified by such agency or official, if the agency or official provides a written or oral statement to DHS that such an accounting would be reasonably likely to impede their activities. However, if such agency or official makes an oral request, DHS will:

(A) Document the oral request, including the identity of the agency or official making the request.

(B) Temporarily suspend the Client's request to an accounting of Disclosures, pursuant to the request; and

(C) Limit the temporary suspension to no longer than 30 days from the date of the oral request, unless the agency or official submits a written request specifying a longer time period.

(9) Filing a complaint. Clients may file complaint with DHS or, if the Information is Protected Health Information, with the Office for Civil Rights of the United States Department of Health and Human Services (DHHS).

(a) Upon request, DHS must give Clients the name and address of the specific person or office of where to submit complaints to DHS or DHHS.

(b) DHS will not intimidate, threaten, coerce, discriminate against, or take any other form of retaliatory action against any person filing a complaint or inquiring about how to file a complaint.

(c) DHS may not require Clients to waive their rights to file a complaint as a condition of providing Treatment, Payment, enrollment in a health plan, or eligibility for benefits.

(d) DHS will designate staff to review and determine action on complaints filed with DHS. These designated staff will also perform these functions when DHS is contacted about complaints filed with the Office for Civil Rights of DHHS.

(e) DHS will document, in the Client's DHS case record or file, all complaints, the findings from reviewing each complaint, and DHS actions resulting from the complaint. This documentation will include a description of corrective actions that DHS has taken, if any are necessary, or of why corrective actions are not needed, for each specific complaint.

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410-014-0040
Minimum Necessary Standards

(1) DHS will limit the Use and Disclosure of Protected Information to that which is reasonably necessary to accomplish the intended purpose of the Use or Disclosure which will be referred to in these DHS Privacy Rules as the Minimum Necessary Standard.

(2) This Minimum Necessary Standard is not intended to impede the essential DHS activities of Treatment, Payment, Health Care Operations, or service delivery.

(3) The Minimum Necessary Standard applies:

(a) When using Protected Information within DHS;

(b) When Disclosing Protected Information to a third party in response to a request; and

(c) When requesting Protected Information from another Covered Entity.

(4) The Minimum Necessary Standard does not apply to:

(a) Disclosures to or requests by a Health Care Provider for Treatment;

(b) Disclosures made to the Individual, including Disclosures made in response to a request for access or an accounting;

(c) Disclosures made in accordance with a valid Authorization;

(d) Disclosures made to the United States Secretary of Health and Human Services for the purposes of compliance and enforcement of federal regulations under 45 CFR 160;

(e) Uses and Disclosures that are required by law; and

(f) Uses or Disclosures required for compliance with federal regulations under 45 CFR 164.

(5) When requesting Protected Information about an Individual from another entity, DHS will limit requests to those that are reasonably necessary to accomplish the purposes for which the request is made. DHS will not request a person's entire medical record unless DHS can specifically justify why the entire medical record is needed.

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410-014-0050
Business Associate

(1) DHS may disclose an Individual's Protected Health Information (PHI) to a Business Associate, and may allow a Business Associate to create or receive an Individual's Protected Health Information on behalf of DHS, if DHS and the Business Associate first enter into a Contract or other written agreement that complies with applicable federal and state law.

(a) If a contractor or business partner is a Business Associate, the Contract remains subject to all federal and state laws and rules governing the contractual relationship.

(b) A Business Associate relationship with DHS also requires additional contractual provisions that must be incorporated into the Contract. A Contract with a Business Associate must substantially comply with OAR 125-055-0100 through 125-055-0130.

(2) The written Contract or agreement between DHS and the Business Associate may permit the Business Associate to:

(a) Use Information it receives in its capacity as a Business Associate if necessary for its proper management and administration or to carry out its legal responsibilities.

(b) Disclose Information it receives in its capacity as a Business Associate if:

(A) The Disclosure is required by law; or

(B) The Business Associate receives assurances from the person to whom the Information is Disclosed that it will be held or Disclosed further only as required by law or for the purposes to which it was disclosed to such person; and

(C) The person notifies the Business Associate of any instances of any known instances in which the confidentiality of the Information has been breached.

(3) DHS may require a Business Associate to implement corrective actions plans or mitigation, if necessary, of known violations, up to and including contract termination if DHS knows of a pattern of activity or practice of a Business Associate that constitutes a material breach or violation of the Business Associate's obligation under the contract or other arrangement.

(a) If DHS receives a complaint or notification regarding Business Associate activities or practices DHS may send a letter to the Business Associate requesting that the Business Associate review the circumstances related to the alleged conduct. DHS will require that the Business Associate respond, in writing, within 10 business days.

(b) If the facts known to DHS demonstrate a pattern of activity or practice of the Business Associate that violated the Business Associate's Contract with DHS, DHS will send a "Cure Letter" to the Business Associate, outlining required remediation in order for the Business Associate to attain Contract compliance.

(c) If Contract compliance cannot be attained, DHS must terminate the Contract if feasible. If termination is not feasible, DHS will report the problem to the United States Department of Health and Human Services, Office for Civil Rights.

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410-014-0060

Uses and Disclosures of Protected Information for Research Purposes

DHS may Use and Disclose an Individual's Information for Research purposes as specified in this rule.

(1) All research Disclosures are subject to applicable requirements of federal and state laws and rules. These requirements may include federal regulations in 45 CFR Part 46, promulgated by the United States Department of Health and Human Services for the protection of human subjects in Research.

(2) De-identified Information or a limited data set may be Used or Disclosed for purposes of Research, pursuant to OAR 410-014-0070, "De-identification of Client Information and use of limited data sets under data use agreements."

(3) DHS may Use or Disclose Information regarding an Individual for Research purposes with the specific written Authorization of the Individual. The Authorization must meet all requirements in OAR 410-014-0030 "Uses and Disclosures", and may indicate an expiration date with terms such as "end of Research study" or similar language. An Authorization for Use and Disclosure for a research study may be combined with other types of written permission for the same research study. If Research includes Treatment, the researcher may require an Authorization for Use and Disclosure for such Research as a provision of providing Research related Treatment.

(4) Notwithstanding Section (3) of this rule, DHS may Use and Disclose an Individual's Information for Research purposes without the Individual's written Authorization, regardless of the source of funding for the Research, provided that:

(a) DHS obtains documentation that a waiver of an Individual's Authorization for release of Information requirements has been approved by either:

(A) An Institutional Review Board (IRB); or

(B) A privacy board established pursuant to 45 CFR 164.512(i)(1) as amended effective October 15, 2002.

(b) Documentation required of an Institutional Review Board or privacy board when granting approval of a waiver of an Individual's Authorization for release of Information must include all criteria specified in 45 CFR 164.512(i)(2) as amended effective October 15, 2002.

(c) A researcher may request access to Individual Information maintained by DHS in preparation for Research or to facilitate the development of a Research protocol in anticipation of Research. DHS shall determine whether to permit such Use or Disclosure, without Individual Authorization or use of an Institutional Review Board, pursuant to 45 CFR 164.512(i)(1)(ii) as amended effective October 15, 2002.

(d) A researcher may request access to Individual Information maintained by DHS about Individuals who are deceased. DHS shall determine whether to permit such Use or Disclosure of Information about decedents, without Individual Authorization or use of an Institutional Review Board, pursuant to 45 CFR 164.512(i)(1)(iii) as amended effective October 15, 2002.

(5) To the extent permitted under state or federal law, DHS is authorized as a Public Health Authority to obtain and use Individual Information without Authorization for the purpose of preventing injury or controlling disease and for the conduct of public health surveillance, investigations and interventions. DHS may also collect, Use or Disclose Information, without Individual Authorization, to the extent that such collection, Use or Disclosure is required by law. When DHS uses Information to conduct Research or studies as a Public Health Authority, no additional Individual Authorization is required nor does this rule require an Institutional Review Board or privacy board waiver of Authorization based on the HIPAA Privacy rules.

(6) DHS may Use and Disclose Information without Individual Authorization for studies and data analysis conducted for DHS' own quality assurance purposes or to comply with reporting requirements applicable to federal or state funding requirements in accordance with the definition of "Health Care Operations" in 45 CFR 164.501 as amended effective October 15, 2002.

Stat. Auth.: ORS 409.010
Stats. Implemented:
Hist.: OMAP 26-2003, f. 3-31-03 cert. ef. 4-1-03

410-014-0070

De-identification of Client Information and Use of Limited Data Sets Under Data Use Agreements

(1) Unless otherwise restricted or prohibited by other applicable federal or state law or rule, DHS may Use and Disclose Information as appropriate for the work of DHS, without further restriction, if DHS or another entity has taken steps to de-identify the Information pursuant to 45 CFR 164.514(a) and (b) as amended effective October 15, 2002.

(2) DHS may assign a code or other means of record identification to allow DHS to re-identify Information that DHS has de-identified under this rule, provided that:

(a) The code or other means of record identification is not derived from or related to Information about the Individual and cannot otherwise be translated to identify the Individual; and,

(b) DHS does not Use or Disclose the code or other means of record identification for any other purpose, and does not Disclose the mechanism for re-identification.

(3) DHS may Use or Disclose a limited data set if DHS enters into a data use agreement with an entity requesting, or providing DHS with, a limited data set subject to the requirements of 45 CFR 164.514 (e) as amended effective October 15, 2002.

(a) DHS may Use and Disclose a limited data set only for the purposes of Research, public health, or Health Care operations. DHS is not restricted to using a limited data set for its own activities or operations unless DHS has obtained a limited data set that is subject to a data use agreement.

(b) If DHS knows of a pattern of activity or practice of a limited data set recipient that constitutes a material breach or violation of a data use agreement, DHS shall take reasonable steps to cure the breach or end the violation. If such steps are unsuccessful, DHS shall discontinue Disclosure of Information to the recipient and report the problem to the Secretary of the United States Department of Health and Human Services.

Stat. Auth.: ORS 409.010
Stats. Implemented:
Hist.: OMAP 26-2003, f. 3-31-03 cert. ef. 4-1-03

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Adm. Order No.: OMAP 27-2003(Temp)
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03 thru 4-15-03
Notice Publication Date:
Rules Suspended: 410-121-0140(T)
Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. On March 14, 2003, OMAP filed a Temporary Cer-

tificate for Rule 410-121-0140 to change the definition of Estimated Acquisition Cost (EAC) by changing, in section (9) (a), "Eighty-six" to "eighty five percent of Average Wholesale Price (AWP) of the drug." This Temporary Certificate is to suspend Rule 410-121-0140(T) until April 15, 2003.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0140

Definition of Terms

(1) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment.

(2) Automated Information System (AIS): A computer system which provides on-line Medicaid eligibility information. Accessed through the provider's touch-tone telephone. The AIS is accessed by dialing 1-800-522-2508.

(3) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(4) Community Based Waiver — Clients eligible through Seniors and People with Disabilities' waiver may receive services in a community setting rather than a nursing facility. The community based setting may be any one of the following:

(a) Supported Living Facilities;

(b) 24-Hour Residential Services;

(c) Foster Care;

(d) Semi-independent Living and Residential Care Facilities.

(5) Compounded Prescriptions: A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient which must be a compensable item or a legend drug in a therapeutic amount. Compounded prescription is further defined to include the Board of Pharmacy definition of Compounding.

(6) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist.

(7) Drug Order/Prescription:

(a) A written prescription, dated and signed by the prescribing practitioner, the elapsed time between the date of writing and date of filling must be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required; or

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner; or

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-five percent of Average Wholesale Price (AWP) of the drug;

(b) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(c) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

(i) Each nursing facility or community based living facility patient's medication be delivered a minimum of five days weekly, or delivery of medical carts every other day with daily (seven-days-a-week) service available;

(ii) Only the actual number of drug units used by the client during the billing period can be billed to OMAP;

(iii) Resumption of the same medication after a "stop order" or discontinuance ("DC") order constitutes a new prescription;

(iv) The closing date for the monthly billing period shall remain the same for all clients;

(v) Small quantity prescriptions are allowed only when the closing date for the monthly billing period is interrupted, e.g., hospitalization, new patient admit, etc.

(B) Modified Unit Dose. A Modified Unit Dose Delivery System requires that:

(i) A pharmacy must deliver each nursing facility or community based living facility client's medication in a sealed single-or multi-dose packages;

(ii) A pharmacy must dispense the greater of the quantity prescribed or a 30-day supply, except when short-term therapy is specified by the prescriber;

(iii) Only the actual number of drug units used by the client during the monthly billing period or during the prescribed medication period can be billed to OMAP;

(iv) The provider must credit OMAP for all unused medications as established by the State Board of Pharmacy;

(v) OMAP will be billed for the date of dispensing within the timely filing limit;

(vi) Manufacturer's Unit Dose packaging of drugs is not reimbursable.

(b) 30-Day Card:

(A) A 30-day blister pack, bingo or punch card containing multiple sealed single doses of medication. The pharmacy must have a system for dispensing and recovery of unused doses that has been approved by the State Board of Pharmacy;

(B) A 30-day card system which does not meet the requirements of the State Board of Pharmacy for recovery of unused doses, or for other reasons does not qualify for payment is not considered a True or Modified Unit Dose Delivery System.

(c) True and Modified Unit Dose providers must:

(A) Supply OMAP with a list of the facilities it will serve under this system;

(B) Sign an agreement to abide by the requirements of the program;

(C) Keep a separate, detailed Medication Administration (MAR) of all medications dispensed for each facility client served.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89;

AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03)

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Adm. Order No.: OMAP 28-2003(Temp)
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03 thru 9-1-03
Notice Publication Date:
Rules Adopted: 410-120-1195
Subject: The General Rules Program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-120-1195 is being adopted to provide a limited prescription drug benefit to certain individuals. Certain individuals previously participating in the medically needy program, identified with specific health related conditions as outlined in a budget note attached to SB 5548, will be eligible for a State-funded limited prescription drug benefit until June 30, 2003.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1195
SB 5548 Population

Effective for services rendered between April 1, 2003, and June 30, 2003.

(1) Certain individuals previously participating in the OSIP-MN Medically Needy Program as of January 31, 2003, and who are identified by DHS with specific health-related conditions as outlined in the Joint Ways and Means budget note accompanying Senate Bill 5548 (2003) shall be referred to as SB 5548 clients:

(a) SB 5548 clients are eligible for a State-funded, limited, prescription drug benefit for covered drugs described in subsection (2) of this rule;

(b) The supply of covered drugs for any SB 5548 client may not exceed a dosage supply for a period from April 1, 2003 through June 30, 2003. A calculation of the dosage supply begins on the date a covered prescription is filled, which may not occur before April 1, 2003. Reimbursement may only be made for covered drugs in quantities that will supply daily doses from the date the prescription is filled until June 30, 2003. No carryover doses beyond those dates are subject to reimbursement under this limited prescription drug benefit program.

(2) Eligibility for, and access to, covered drugs for SB 5548 clients:

(a) SB 5548 clients must have been participating in the former OSIP-MN Medically Needy Program as of January 31, 2003, and as of that date had a medical diagnosis of HIV or organ transplant status;

(b) SB 5548 clients receiving anti-retrovirals and other prescriptions necessary for the direct support of HIV symptoms:

(A) Must agree to participate in the DHS CareAssist Program in order to obtain access to this limited prescription drug benefit; and

(B) Prescriptions are limited to those listed on the CareAssist Formulary which can be found at www.dhs.state.or.us/publichealth/hiv/careassist/.

(c) SB 5548 clients receiving Immunosuppressive, anti-infectives and other prescriptions necessary for the direct support of organ transplants:

(A) Drug coverage includes any Medicaid reimbursable Immunosuppressive, anti-infectives or other prescriptions necessary for the direct support of organ transplants, except for those classes listed in Table1195. These classes are restricted to the formulary as outlined in Table 1195.

(B) These SB 5548 clients may obtain dosages not to exceed the covered time period from April 1, 2003, to June 30, 2003:

(i) Via mail order one (1) 100-day fill; or

(ii) Via any retail pharmacy choosing to participate in this limited prescription drug benefit program, up to three (3) 34-day fills.

(3) Reimbursement for covered prescription drugs is limited by the terms and conditions described in this rule. This limited drug benefit provides State-funded reimbursement to pharmacies choosing to participate according to the terms and conditions of this rule:

(a) SB 5548 clients will not be sent a medical ID card, however they will be sent a letter from the Department, which will document their eligibility for this limited drug benefit;

(b) Retail pharmacies choosing to participate will be reimbursed for covered prescription drugs for the direct support of organ transplants described in subsection (2)(c) of this rule at the lessor of billed, Average Wholesale Price (AWP) minus14% or Oregon Maximum Allowable Cost (OMAC), plus a dispensing fee of $3.50;

(c) DHS pharmacy benefits manager, First Health, will process retail pharmacy drug benefit reimbursement claims for SB 5548 clients;

(d) Mail order reimbursement will be subject to DHS contract rates;

(e) Prescription drugs through the CareAssist program will be subject to the DHS contract rates;

(f) Reimbursement for this limited drug benefit is not subject to the following rules:

(A) 410-120-1230 and 1235, Client Copayments;

(B) 410-121-0300, Federal Upper Limit (FUL) for prescription drugs.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: OMAP 28-2003(Temp), f.. & cert. ef. 4-1-03 thru 9-1-03

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Adm. Order No.: OMAP 29-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 3-1-03
Rules Amended: 410-121-0030, 410-121-0040
Subject: Administrative rules govern Office of Medical Assistance Programs (OMAP) payments to providers serving clients of the Medical Assistance programs. Rule 410-121-0030 is amended to add drug categories to Table 121-0030-1, the PMPDP, Plan Drug List (PDL). Rule 410-121-0040 is amended to add an item to the list of items needing prior authorization.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0030
Practitioner-Managed Prescription Drug Plan (PMPDP)

(1) Practitioner-Managed Prescription Drug Plan (PMPDP)

(a) The Practitioner-Managed Prescription Drug Plan is a plan that ensures that fee for service clients of the Oregon Health Plan will have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price;

(b) Decisions concerning the clinical effectiveness of the prescription drugs are made by licensed health practitioners, informed by the latest peer-reviewed research and consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Plan Drug List (PDL):

(a) The PDL is the primary tool that the Department of Human Services (DHS) has developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL is a listing of prescription drugs for selected classes that DHS, in consultation with the Health Resources Commission (HRC), has determined represents effective drug(s) available at the best possible price;

(c) For each selected drug class, the PDL will identify a drug(s) as the benchmark drug that has been determined to be the most effective drug(s) available for the best possible price. The PDL will include other drugs in the class that are Medicaid reimbursable and which the FDA has determined to be safe and effective if the relative cost is less than the benchmark drug(s). If pharmaceutical manufacturers enter into supplemental discount agreements with DHS that reduces the cost of their drug below that of the benchmark drug for the class, their drug will also be included in the PDL. A copy of the PDL is available on the web at www.omap.hr.state.or.us.

(3) PMPDP Plan Drug List (PDL) Selection Process:

(a) DHS will utilize the recommendations made by the HRC, which result from an evidence-based evaluation process, as the basis for identifying the most effective drug(s) within a selected drug class;

(b) DHS will determine the drug(s) identified in (3)(a) that is available for the best possible price; and considering any input from the HRC, other FDA approved drug(s) in the same class that are available for a lesser relative price. Relative price will be determined using the methodology described in subsection (4);

(c) Drug classes and selected drug(s) for the drug classes will be reviewed annually or more frequently if in the discretion of DHS, new safety information or the release of new drugs in a class or other information makes this advisable. New drugs will not be added to the PDL until they have been reviewed by the HRC. All changes or revisions to the PDL will

be made publicly, using the rulemaking process, and will be published in OMAP's Pharmaceutical Services provider guide.

(4) Relative Cost and Best Possible Price Determination:

(a) DHS will determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) DHS will first determine the benchmark drug based on the Average Wholesale Price (AWP) on the first of the month in which DHS reviews that specific drug class;

(c) Once the cost of the benchmark drug is determined, the costs of other FDA approved drugs in the class will be recalculated using AWP, Oregon Maxamim Allowable Cost (OMAC) and/or Federal Upper Limits in effect on the first of the month in which DHS reviews that specific drug class (OAR 410-121-0180), less average rebate. Drugs with prices under 105% of the benchmark drug price will be included on the PDL;

(d) DHS will consider price, rebate, and the stability of both, over a period of time in determining the cost effectiveness. DHS may also consider dosing issues, patterns of use and compliance issues. These factors will be weighed with any advice provided by the Health Resources Commission in reaching a final decision.

(5) PMPDP Reimbursement: OMAP will only reimburse for the prescription drugs specifically listed in the PMPDP categories on the Plan Drug List(s). OMAP will only reimburse for drugs not listed in the PMPDP categories by using the exception process.

(6) PMPDP Plan Drug List (PDL) Exception Process:

(a) If the prescribing practitioner, in his/her professional judgement, wishes to prescribe a drug not on the PDL, he/she may request an exception, subject to the requirements of OAR 410-121-0040. The prescribing practitioner must certify in his/her handwriting, or, if the prohibition was communicated by telephone, or electronic transmission, the pharmacist's handwriting, one of the following phrases or notations: No substitution; N.S.; Brand medically necessary; Brand necessary; Medically necessary; D.A.W. (Dispense As Written); or notations with similar meaning. Preprinted, stamped or a box to check is unacceptable;

(b) Regardless of the PDL, prescriptions shall be dispensed in the generic form unless practitioner requests otherwise subject to the regulations outlined in OAR 410-121-0155. Table 121-0030-1, PMPDP Plan Drug List (PDL) (updated effective 4/1/03) [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 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization for the following drugs and products:

(a) Isotretinoin (Accutane) and Retinoic Acid (Retin A);

(b) Growth hormone;

(c) Oral Nutritional supplements;

(d) Antihistamines (selected);

(e) Nasal inhalers (selected);

(f) Antifungals (selected);

(g) Weight reduction drugs;

(h) Excessive daily doses;

(i) Excessive drug therapy duration;

(j) Coal tar preparations;

(k) Topical antibiotics;

(l) Topical antivirals (selected);

(m) Topical testosterone;

(n) Dronabinol (marinol) — (Effective date, April 1, 2003)

(o) Drugs with cosmetic indications;

(A) Emollients;

(B) Dermatologicals;

(C) Hair growth products;

(p) Proton Pump Inhibitors: Prior authorization is required after the initial eight weeks of acute antiulcer therapy when dosages exceed the chart below:

(A) Drug: Axid (nizatidine); Acute Daily Dosage — > 151 mg;

(B) Drug: Nexium (esomeprazole); > 19 mg;

(C) Drug: Previcid (lansoprazole); Acute Daily Dosage — > 14 mg;

(D) Drug: Prilosec (imeprazole); Acute Daily Dosage — > 9 mg;

(E) Drug: Protonix (pantoprazole); Acute Daily Dosage — > 39 mg.

(2) Over-the-counter medications not mentioned above are limited to two prescriptions per therapeutic class per month.

(3) Psychotropic prescriptions for children under 6, cannot be processed when a default 999999 provider number has been entered.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03

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Adm. Order No.: OMAP 30-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 3-1-03
Rules Amended: 410-141-0520
Subject: 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 revised to reference the updated Health Services Commission's Prioritized List of Health Services, effective April 1, 2003.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Ancillary Services and Preventive Services, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The most current list, dated October 1, 2002, is available on the HSC website (http://www.ohpr.state.or.us/hsc/index_hsc.htm) or, for a hardcopy, contact the Office of Health Policy and Research. This rule references the Prioritized List, updated with April 1, 2003 revisions, available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services. These codes are identified on the Chemical Dependency (CD) section of line 188.

(4) The first 558 lines of the Prioritized List of Services are currently funded and are covered for payment by OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03

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Adm. Order No.: OMAP 31-2003
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 3-1-03
Rules Amended: 410-133-0000, 410-133-0040, 410-133-0080, 410-133-0120, 410-133-0200, 410-133-0220, 410-133-0300, 410-133-0320
Rules Repealed: 410-133-0020, 410-133-0240
Subject: Administrative rules govern Office of Medical Assistance Programs (OMAP) payments to providers serving clients of the Medical Assistance programs. Rules 410-133-0000, 410-133-0040, 410-133-0080, 410-133-0120, 410-133-0200, 410-133-0220, 410-133-0300, 410-133-0320 are amended, and Rules 410-133-0020, 410-133-0240 are repealed, to conform to federal guidance for medically related services for Oregon's chronically disabled children in

the school setting. A portion of the language from 410-133-0020 is now shown in 410-133-0000. These amendments are a result of federal guidance and requirements for Health Insurance Portability and Privacy Act (HIPAA).
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-133-0000
Purpose

(1) School-Based Health Services is a medical program, which leverages Oregon Department of Education (ODE) State General Funds with matching Federal Funds for Oregon Health Plan (OHP) Medicaid eligible students. These rules are to be used in conjunction with the General Rules governing the Office of Medical Assistance Programs (OAR 410 Division 120). The School-Based Health Services rules are a user's manual designed to assist the educational entity in matching State and Federal Funds for Oregon's children with disabilities, as defined by Individuals with Disabilities Education Act (IDEA).

(2) The Oregon Administrative Rules in chapter 581, division 15 for the Department of Education outline Oregon's program to meet the federal provisions of the Individuals with Disabilities Education Act. These rules of School-Based Health Services define Oregon's program to reimburse the health services provided under that Act to Oregon's Medical Assistance Program-eligible children.

(3) The Oregon Department of Education and the Office of Medical Assistance Programs recognize the unique intent of health services provided for medical disabilities in the special education setting. The School-Based Health Services rules address the health aspects of special education services.

(4) OMAP endeavors to furnish medical providers with up-to-date billing, procedural information, and guidelines to keep pace with program changes and governmental requirements.

(5) Providers are responsible to maintain current publications provided by OMAP.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03

410-133-0040
Definitions

(1) Adapted Vehicle — Vehicle specifically designed and/or modified to transport passengers with disabilities.

(2) Adequate Recordkeeping — In addition to General Rules OAR 410-120-0000, Definitions and 410-120-1360, Requirements for Financial, Clinical, and Other Records, documentation in the student medical file and on the IEP/IFSP showing the medically appropriate health services provided to the student detailed in OMAP rules (See OAR 410-133-0320).

(3) Assessment — A process in obtaining information to determine if a student qualifies for OMAP covered medical services.

(4) Augmentative Communication Services — Services provided by Augmentative Communication Specialists or a Speech Pathologist with training and expertise in the use of alternative communication systems.

(5) Automated Information System (AIS) — See General Rules (OAR 410-120-0000 Definitions).

(6) Benefit Package — See General Rules (OAR 410-120-0000 Definitions).

(7) Billing Time Limit — Refers to the rules concerning the period of time allowed to bill a services to OMAP under "Timely Submission of Claims" (See OAR 410-120-0340).

(8) Center for Medicare and Medicaid Services (CMS) — Formerly Health Care Financing Administration (HCFA), the federal regulatory agency for Medicaid programs.

(9) CMS-1500 (formerly HCFA-1500) — The standard federal billing form used to bill medical services.

(10) Certification — See "licensure."

(11) Conference — A scheduled meeting, regarding a student with special needs, between several interested parties. A conference should be one of the following:

(a) A meeting to determine a child's early intervention or special education eligibility;

(b) A meeting to plan a child's appropriate educational program or early intervention plan under the IDEA;

(c) An Individual Education Plan/Individual Family Service Plan (IEP/IFSP) team meeting to discuss the child's progress;

(d) A meeting with other health care professionals to discuss the child's health related issues.

(12) Consultation — Services that are provided by medically-qualified providers under the scope of their licensure, to other professionals or family members. These services or expertise are related to specific goals and objectives in a student's IEP/IFSP or similar plan.

(13) Current Procedural Terminology (CPT) — See General Rules (OAR 410-120-0000 Definitions).

(14) Delegation of Nursing Task — A selected nursing task that is assigned to an unlicensed person and monitored by a licensed Registered Nurse. Delegation and supervision of task must comply with Oregon Administrative Rules, Board of Nursing, division 47.

(15) Department — Refers to the Oregon Department of Education (ODE).

(16) Direct Services — Face-to-face interventions between the medically qualified service provider and a Medicaid eligible client.

(17) Early Childhood Special Education — Specially designed instruction to meet the unique needs of a preschool child (three years of age until the age of eligibility for kindergarten, or five years of age) with a disability.

(18) Early Intervention — A state-operated program designed to address the unique needs of preschool children (ages zero to three) with a disability.

(19) Educational Entity — (Within the context of the School-Based Health Services rules), a local school, school district, Education Service District, Regional Program, state-operated school, or a private school receiving State General Funds through the Oregon Department of Education (ODE).

(20) Education Service District (ESD) — An education entity established to offer a resource pool of cost-effective, education-related, physical- and mental health-related, state-mandated services to multiple local school districts within a geographic area described in ORS 334.

(21) Eligible for Special Education — A child who meets the eligibility criteria for early intervention, early childhood special education or special education as defined in ORS 343 and OAR, chapter 581, division 15.

(22) Evaluation — Assessment procedures to determine a child's specific needs under IDEA and in accordance with OAR 581-015-0071, and which must be completed by medically qualified staff practicing under the scope of their licensure.

(23) Health Care Aide/Delegated Health Care Aide — A non-licensed person assigned by a Registered Nurse to perform selected tasks of nursing care identified in the Nursing Care/Health Management Plan as part of the IEP/IFSP.

(24) Healthcare Common Procedure Coding System (HCPCS) — See General Rules (OAR 410-120-0000 Definitions).

(25) Health Management Plan — A written description of a student's health issues, desired treatment outcomes, and prescribed nursing interventions to address the health needs of a child in the educational setting. The plan must be a part of and attached to the IEP/IFSP.

(26) Health Services — Medical (physical and/or mental health) evaluation, testing and/or treatment required to achieve the goals set forth in a child's IEP or IFSP, or similar plan. A health service is provided to enable the child to benefit from a special education program (age 3-21) or an early intervention program (age 0-2).

(27) ID Number — A number issued by the Department of Human Services (DHS) agency used to identify Oregon Health Plan clients. This number may also be referred to as Recipient Identification Number; Prime Number; Client Medical ID Number or Medical Assistance Program ID Number.

(28) Individuals with Disabilities Education Act (IDEA) — Formerly called the Education of the Handicapped Act, the program authorizes federal matching funds to states for the School-Based Health Services and School-Based Administrative Claiming programs.

(29) Individualized Education Plan (IEP) — A written action plan designed to meet the individual needs of a child's disabilities, impaired function and educational goals. The plan is developed in accordance with requirements and definitions in OAR chapter 581, division 15.The IEP addresses disabilities that will continue and cannot be resolved by short-term therapies.

(30) Individualized Family Service Plan (IFSP) — A written plan of early childhood special education, related services, and early intervention services. The plan is developed to meet the needs of a child with disabilities in accordance with requirements and definitions in OAR chapter 581, division 15.

(31) Individualized Education Plan/Individualized Family Service Plan (IEP/IFSP) Team — Teachers, Specialists, and Parents responsible for

determining eligibility, for developing, reviewing and revising an IEP/IFSP or similar plan in compliance with OAR chapter 581, Division 15.

(32) Intervention Activity — A term sometimes used in the education setting to indicate a medical service or treatment.

(33) Licensure — The process of state agencies assuring those licensed are qualified to perform specific duties and scope of services within a legal standard recognized by that agency.

(34) Local Education Agency — See Educational Entity.

(35) Medical Provider — An individual licensed by the State to provide health services within their governing body's definitions and respective scope of practice. Medical provider and practitioner are interchangeable terms.

(36) Medical Services — The care and treatment provided by a licensed medical provider to prevent, diagnose, treat, correct or address a medical problem, whether physical, mental or emotional. For the purposes of these rules, this term shall be synonymous with health and/or health-related services listed on an IEP, IFSP or similar plan, as defined in OAR chapter 581, division 15.

(37) Medical Transportation — Transportation in an adapted vehicle to and/or from a covered service.

(38) Medically Appropriate — (For the purposes of the SBHS program), Services that are required for prevention, diagnosis, or treatment of a health condition that encompasses physical and/or mental conditions which:

(a) Meet the treatment standard of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(b) The most cost-effective of the alternative levels of medical services which can be safely provided to an OMAP member; and

(c) Not solely for the convenience of an Oregon Health Plan client or a provider of the service.

(39) Medically Qualified Staff — Staff employed by and/or through contract with a School Entity in compliance with State law defining and governing the scope of practice, and OAR 410-133-0120.

(40) Nursing Services — Services provided by a registered professional nurse, a licensed practical nurse or delegated health care aide, within the scope of practice as defined by State law. Nursing services include preparation of treatment plans, consultation and coordination of service activities as well as direct patient care and supervision.

(41) Observation — Surveillance or visual monitoring performed by a medical provider to better understand the child's medical needs and progress in their natural environment.

(42) OMAP Rate — The amount OMAP will reimburse for a service.

(43) Orientation and Mobility Training — Evaluation and training provided by a certified or equivalently trained Orientation and Mobility Specialist to correct or alleviate mobility difficulties created by a loss or lack of vision. This service is not covered under the SBHS program.

(44) Prime Number — See definition of ID Number.

(45) Provider Agreement or Intergovernmental Agreement (IGA) — A contract between OMAP and an enrolled Educational entity which commits both parties to the provisions of the OMAP General Rules and related program rules.

(46) Qualified Provider/School Medical Provider (SM) — (Within the context of the School-Based Health Services rules), this term means a provider who is certified by the Department of Education and OMAP as qualified to perform IEP/IFSP school-based services as an educational entity.

(47) Recipient — See Client in the General Rules. This term is synonymous with "student" or "child" in the School-Based Health Services rules.

(48) Regional Program — Services provided on a multi-county basis, under contract from the Department of Education to eligible children (birth to 21) visually impaired, hearing impaired, deaf-blind, autistic, and/or severely orthopedically impaired.

(49) Rehabilitative Services — For purposes of the SBHS program, any medical, psychological or remedial service recommended by a physician or other licensed practitioner within the scope of practice under State law, for reduction, correction, stabilization or functioning improvement of physical or mental disability of a client (See 410-133-0060).

(50) Related Services — Supportive services which assist a child with disabilities to benefit from early intervention or special education services. "Related services" are not all covered for payment by OMAP. See Rules 410-133-0080, Coverage and 410-133-0200, Not Covered Services.

(51) School-Based Health Services (SBHS) — A medical service provided in the school setting, meeting the requirements of state (ODE and OMAP) and federal (IDEA, Social Security Act and CMS) law and guidelines.

(52) School Medical Provider — A provider type (SM) established by OMAP to designate the provider of School-Based Health Services.

(53) Screening — A limited examination to determine a child's need for diagnostic medical evaluation. A screening is usually provided to a child, group, class, or school population, and is not diagnostic. For the SBHS program, screening as defined herein is not billable. Screening services as defined by CMS must contain the following five elements to be Medicaid billable:

(a) Comprehensive health and developmental history, including assessment of both physical and mental health development;

(b) Comprehensive unclothed physical examination;

(c) Appropriate immunizations according to the Advisory Committee on Immunization Practice (ACIP) schedule;

(d) Laboratory tests, including blood lead level assessment; and

(e) Health education, including anticipatory guidance.

(54) Similar Plan; Individual School Health Management Plan or Nursing Plan that describes the nature, frequency and duration of the services and assistance to meet the needs of a child with a disability, or who are medically at risk.

(55) Special Education Services — Specially designed instruction to meet the unique needs of a child with a disability, including regular classroom instruction, instruction in physical education, home instruction, and instruction in hospitals, institutions, special schools, and other settings.

(56) State Education Agency (SEA) — The Oregon Department of Education which provides oversight to public education entities for ensuring compliance with Federal and Oregon state laws relating to the provision of services required by the Individuals with Disabilities Education Act (IDEA).

(57) State-Operated Schools — The Oregon School for the Blind or the Oregon School for the Deaf.

(58) Student Health/Medical/Nursing Records — Records that document, for Medical Assistance Program purposes, the child's diagnosis or the results of tests, screens or treatments; treatment plan; the IEP or IFSP; and the record of treatments given to the child.

(59) Teachers' Standards and Practices Commission (TSPC) — The Commission which governs licensing of teachers, personnel service specialists, and administrators as set forth in OAR 584-001-0000 through 584-090-0060.

(60) Testing — See "Assessment".

(61) Third Party Billing — The process of sending a bill to a public or private insurance company for a medical or health service given to someone who is insured.

(62) Transportation as a Related Service — Transportation to OMAP eligible services, and described in the IEP/IFSP as outlined in OAR 410-133-0080 Coverage.

(63) Treatment Plan — A child specific plan as defined by the IEP/IFSP or health management/nursing care plan.

(64) Unit — A service measurement of time for billing and reimbursement efficiency. One (1) unit equals 15 minutes unless otherwise stated.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 29-1993, f. & cert. ef. 10-1-93; HR 21-1995, f. & cert. ef. 12-1-95;OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03

410-133-0080
Coverage

The Office of Medical Assistance Programs will reimburse for the following services:

(1) Health services required by a child's physical and/or mental conditions as described in Individual Education Plan (IEP or IFSP) or similar individualized plan.

(a) Health Service, Individual or Group, includes reimbursement for corrective treatments and related activities as described in a student's individual plan and the documentation of written records for those treatments.

(A) The payment rate for Health Services includes the case management and supervision functions and necessary supplies for these services.

(B) These services must be provided by personnel who meet the standards of licensing or certification for the service being provided as described in OAR 410-133-0120 and the respective provider's governing definitions, scope of practice, and licensure or certification.

(b) Nursing Services must be provided by a Registered Nurse (RN), Licensed Practical Nurse (LPN), or Nurse Practitioner (NP) within the scope of their licensure. Services are those described in OAR Chapter 851, the Oregon Nurse Practice Act including:

(A) Development, assessment and/or coordination of the treatment plan; or

(B) Direct nursing care services; or

(C) Training and oversight of any health care aides performing delegated nursing services; or

(D) Other services within the scope of nursing care

(E) Nursing services under this program are not intended to reimburse nursing activities of a Private Duty RN or LPN that is otherwise billing OMAP for those services.

(2) Evaluation and testing services necessary to determine a child's medical needs.

(a) Testing and evaluation services are procedures used to determine a health related need, diagnosis, or eligibility.

(b) Services must be provided by medically qualified providers who meet the standards of licensing or certification for the service being provided as described in OAR 410-133-0120 and the respective provider's governing definitions, scope of practice, and licensure or certification.

(c) Reimbursable time may include:

(A) Student-practitioner interactive services;

(B) Student observation by qualified staff;

(C) Preparation of the written evaluation/testing reports.

(3) Transportation to medical services as documented in the child's IEP/IFSP and defined in these rules.

(a) Ongoing transportation as a related service is billable only for the days medical services are provided. For transportation as a related service to be reimbursable the transportation must be identified in the child's IEP/IFSP and the medical service must also be listed in the IEP/IFSP.

(b) OMAP may only reimburse for transportation services to and from school for a child when the child receives a medical service other than transportation in the school on that day when either of the following situations exist:

(A) Child requires specialized transportation in a vehicle adapted to serve the needs of the disabled child and medical transportation is listed as a service in the child's IEP/IFSP; or

(B) Child has a medical need for transportation that is noted in the IEP/IFSP, but resides in an area that does not have regular school bus transportation such as those areas in proximity to a school.

(c) If a child is able to ride on a regular school bus, but requires the assistance of an aide to ride the bus, the transportation cost is not reimbursable. However, the aide can be paid when required on a regular, non-adapted transport.

(d) Transportation is not reimbursable by OMAP when provided by the parent or relative of the child.

(e) Transportation to an evaluation service is covered as long as:

(A) The evaluation is to determine or to redetermine IDEA eligibility;

(B) The evaluation is a Title XIX service;

(C) The provider meets licensing standards necessary to be an eligible OMAP provider.

(4) Delegated Health Care Aide service is reimbursed for health care services delegated to a health care aide under the Standards for Delegation and Assignment of Nursing Care Task as outlined in OAR 851-047-0000.

(5) Transportation Attendant service is reimbursable to accompany students/children who cannot be transported safely without an additional attendant for behavioral or physical reasons.

(6) Contracted Consult Service reimburses schools for furnishing consultations to IEP/IFSP students for the purpose of evaluation and/or testing from licensed medical professional other than provider staff.

(a) This service may be on a contracted basis for a number of students.

(b) Allowable services must be furnished through a personal service contract between the School Medical Provider and the licensed practitioner.

(c) This service would only be billable to OMAP when the licensed practitioner did not bill OMAP directly under other programs for the same services.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 31-2003, f. & cert ef. 4-1-03

410-133-0120
Medically Qualified Staff

The School Medical provider shall furnish reimbursable services through the following qualified staff who provide services within the scope of their licensure:

(1) Physical or occupational therapy treatments shall be provided by licensed physical therapists, licensed occupational therapists, licensed physical therapy assistants or certified occupational therapy assistants within the scope of their licensure. Physical or occupational therapy evaluations and treatment plan development can only be provided by licensed physical therapists or licensed occupational therapists. Special education teachers are not recognized as medically qualified staff for these services.

(2) Medical evaluations, assessments or testing are services that are provided by licensed physicians and osteopaths.

(3) Nursing evaluations and treatment for disabled children shall be provided by licensed Registered Nurses, Licensed Practical Nurses or licensed Nurse Practitioners within the scope of their licensure. Delegated nursing tasks shall be provided by trained health care aides.

(4) Psychological/mental health evaluations, testing, psychological services and/or treatments shall be provided by individuals who meet the relevant requirements of their respective professional state licensure and/or the Teachers' Standards and Practices Commission, and practice within their respective scope. Individuals who meet those requirements include: Basic School Psychologist (584-044-0014), Standard School Psychologist (584-044-0023), Standard Counselor (584-044-0023), Child Development Specialist with Master's Degree (581-023-0050), Standard Handicapped Learner Endorsement I or II with Master's Degree (584-040-0260, 584-040-0265), Standard Severely Handicapped Learner Endorsement with Master's Degree (584-040-0280), licensed physician, licensed psychologist, licensed psychiatrist, licensed clinical social worker, and licensed Counselor.

(5) Speech therapy treatments and speech therapy evaluations shall be provided by speech pathologists who are either licensed by the Board of Speech Examiners in Speech Pathology and Audiology or hold the American Speech and Hearing Association (ASHA) Certificate of Clinical Competence (CCC) or a graduate speech pathologist being supervised in the Clinical Fellowship Year (CFY).

(6) Audiological evaluations/screenings and services shall be provided by licensed audiologists or licensed audiometrists within the scope of State law.

(7) Vision services shall be provided by licensed ophthalmologists or optometrists for services within the scope of their licensure.

(8) Delegated Health Care Services shall be provided by medically trained health care aides specifically trained and supervised by a registered nurse or nurse practitioner, within the scope of their licensure.

(9) Delegated transportation attendants are specifically trained for health and safety issues.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 49-1991(Temp), f. & cert. ef. 10-24-91; HR 3-1992, f. & cert. ef. 1-2-92; HR 29-1993, f. & cert. ef. 10-1-93; HR 19-1994, f. & cert. ef. 4-1-94; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 31-2003, f. & cert ef. 4-1-03

410-133-0200
Not Covered Services

(1) Education-based costs normally incurred to operate a school and provide an education are not covered for payment by the Office of Medical Assistance Programs (OMAP).

(2) Medical care not documented on the child's individualized plan is not covered for payment by OMAP, under the School-Based Health Services program.

(3) Also not covered:

(a) Activities related to researching student names, determine Medical Assistance Program eligibility status, administrative activities such as data entry of billing claim forms, and travel time by service providers;

(b) Family therapy where the focus of treatment is the family;

(c) Routine health nursing services provided to all students by school nurses; nursing intervention for acute medical issues in the school setting, e.g. students who become ill or are injured, or short duration acute services not listed on the IEP;

(b) Educational workshops, training classes, and parent training workshops.

(c) Transportation services to and from school;

(d) Vocational services;

(e) Screening services;

(f) Evaluation services performed by a provider without licensure to make a diagnosis within the scope of practice;

(g) Service provided to non-Medicaid student, group, class, or school free of charge.

(h) Recreational services.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03

410-133-0220
Billing and Payment — For Services Provided on or After September 1, 1991

(1) The School Medical Provider must bill OMAP at a rate no greater than the rate established by the provider for billing the service to any other resource. Payment by OMAP will not exceed OMAP established rates.

(2) Services must be billed on a CMS-1500 or by electronic media claims (EMC) submission using only those procedure codes found in the School-Based Health Services rules.

(3) OMAP will accept a claim up to 12 months from the date of service. See General Rules OAR 410-120-1300, Timely Submission of Claims.

(4) CMS-1500 forms are not provided by OMAP. A common source for getting these forms is a local forms supplier. Send all completed CMS-1500 Forms to: Office of Medical Assistance Programs, Salem, OR 97309. See General Rules for OMAP billing information, addresses and contact information.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.750 & ORS 184.770
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 31-2003, f. & cert. ef. 4-1-03

410-133-0300
Procedure Codes

(1) The provider must use the procedure code from the School-Based Health Services rules which best describes the specific service or item provided. Refer to 410-133-0080 Coverage for service requirements and limitations.

(2) Unit values equal 15 minutes of service unless otherwise stated. These time units must be documented in the child's records under the services billed. Account for each unit of service under one code only.

(3) RS 110. Health Service — Individual — Maximum units limited to 264 units per month.

(4) RS 111. Health Service — Group — Maximum limited to 264 units per year.

(5) RS 112. Testing, Evaluation — Maximum limited to 144 units per year.

(6) RS 114. Nursing Services — Maximum limited to 558 units per month.

(7) RS 116. Delegated Health Care Aide or Transportation Attendant — Maximum units limited to 352 units per month.

(8) RS 118. Medical Transportation Mileage/Transportation.

(9) RS 120. Contracted Consult Service — Each daily service equals one unit regardless of time involved. Maximum units limited to 24 per year.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 29-1993, f. & cert. ef. 10-1-93; HR 21-1995, f. & cert. ef. 12-1-95; OMAP 1-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03

410-133-0320
Recordkeeping Requirements

(1) Providers will retain information to document the level of service provided to the child as billed to OMAP for seven years. (See General Rules OAR 410-120-1360). OMAP recognizes that much of this required documentation may already be collected on the IEP. It is not the intent to require that this information be re-created on another record. These requirements will be met if the information is included in the IEP and supporting documentation.

(2) The student health record will include:

(a) A copy of the child's IEP or IFSP or similar special education plan as well as any addendum to the plan;

(b) A notation of the diagnosis and/or condition being treated or evaluated;

(c) Results of analysis of any mental health/medical analysis, testing, evaluations, and/or assessments for which reimbursement is requested;

(d) Documentation of the place or setting, duration, and extent of each service or intervention activity given, by the date of service, signed and initialed by provider (electronic records can be printed);

(e) The record of who performed the service and their credentials or position;

(f) The medical recommendation to support the service.

(g) Periodic evaluation of therapeutic value and progress of student to whom a medical service is being provided; and

(h) Record of medical need for transportation to a medical service, specific date transported, and number of door to door miles.

Stat. Auth.: ORS 409.010
Stats. Implemented: ORS 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 22-1995, f. & cert. ef. 12-1-95; OMAP 31-2003, f. & cert. ef. 4-1-03

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Adm. Order No.: OMAP 32-2003(Temp)
Filed with Sec. of State: 4-15-2003
Certified to be Effective: 4-15-03 thru 9-15-03
Notice Publication Date:
Rules Amended: 410-121-0140, 410-121-0160
Rules Suspended: 410-121-0140(T)
Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. On March 14, 2003, OMAP filed a Temporary Certificate for Rule 410-121-0140 to change the definition of Estimated Acquisition Cost (EAC) by changing, in section (9)(a), "Eighty-six" to "eighty -five" percent of Average Wholesale Price (AWP) of the drug." The amendment is contingent upon approval from the Centers for Medicare and Medicaid Services. This Temporary Certificate is to suspend Rule 410-121-0140(T).

On December 15, 2002, OMAP filed Notice of intent to permanently amend 410-121-0140 to change the definition of EAC by adding section (9)(b) "Eighty-nine percent of AWP for a pharmacy enrolled with OMAP as a unit dose or modified unit dose pharmacy (see policy 410-121-0148)." pertaining to AWP rate of reimbursement for institutional pharmacies (UD Modified UD), effective February 1, 2003 and OAR 410-121-0160, to change the dispensing fees from $3.80 to $3.91, for Pharmaceutical providers operating with a True or Modified Unit Dose Delivery System, as defined by OMAP. Implementation of these actions is contingent upon approval from CMS. Upon approval from CMS, the new AWP reimbursement rates and dispensing fees will be implemented retroactively to February 1, 2003.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0140
Definition of Terms

(1) Actual Acquisition Cost: The net amount paid per invoice line item to a supplier. This net amount does not include separately identified discounts for early payment.

(2) Automated Information System (AIS): A computer system which provides on-line Medicaid eligibility information. Accessed through the provider's touch-tone telephone. The AIS is accessed by dialing 1-800-522-2508.

(3) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules.

(4) Community Based Living Facility: For the purposes of the OMAP Pharmacy Program, "community based living facilities" include:

(a) Supportive Living Facilities;

(b) 24-Hour Residential Services;

(c) Foster Care;

(d) Semi-independent Living Programs;

(e) Assisted Living and Residential Care Facilities.

(5) Compounded Prescriptions: A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient which must be a compensable item or a legend drug in a therapeutic amount. Compounded prescription is further defined to include the Board of Pharmacy definition of Compounding.

(6) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist.

(7) Drug Order/Prescription:

(a) A written prescription, dated and signed by the prescribing practitioner, the elapsed time between the date of writing and date of filling must be reasonable and appropriate for the drug and to the conditions for which it is ordinarily required; or

(b) An order on a nursing facility chart, dated and signed by the prescribing practitioner, or

(c) A telephone (verbal) order from the prescribing practitioner, or his agent, to the pharmacist and filed in the pharmacist's place of business;

(d) All prescriptions/drug orders shall be filed in the pharmacist's place of business according to State Board of Pharmacy rules and regulations.

(8) Durable Medical Equipment and supplies (DME): Equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, custom built orthopedic braces. Medical supplies are nonreusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, tubing.

(9) Estimated Acquisition Cost (EAC): The estimated cost at which the pharmacy can obtain the product. In the absence of actual cost data, OMAP will determine Estimated Acquisition Cost as the lesser of:

(a) Eighty-five percent of Average Wholesale Price (AWP) of the drug. Section (9)(a) is effective for services rendered on or after May 1, 2003, contingent upon approval from Centers for Medicare and Medicaid Services.

(b) Eighty-nine percent of AWP for a pharmacy enrolled with OMAP as a unit dose or modified unit dose pharmacy (see policy 410-121-0148). Section (9)(b) is effective for services rendered on or after February 1, 2003, contingent upon approval from Centers for Medicare and Medicaid Services. These rates will be reimbursed retroactively to February 1, 2003.

(c) Health Care Financing Administration (HCFA) upper limits for drug payment. These prices will be the upper limit on EAC for the HCFA designated drugs as specified by OMAP;

(d) Oregon Maximum Allowable Cost (OMAC).

(10) Managed Access Program (MAP): The OMAP Managed Access Program, through its designated agent, First Health Services, utilizes a system of clinical protocols to evaluation drug therapy selected in drug categories. A prescriber or licensed medical personnel in a prescriber's office may request prior authorization on selected drug categories by calling the MAP Help Desk.

(11) Nursing Facilities: The term "Nursing Facility" refers to an establishment which is licensed and certified by Senior and Disabled Services Division as a Nursing Facility.

(12) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies which provides on-line, real-time claims adjudication.

(13) Prescription Splitting: Any one or a combination of the following actions:

(a) Reducing the quantity of a drug prescribed by a licensed practitioner. In situations where greater than a 34-day supply is prescribed, a pharmacist may dispense a 34-day supply (See OAR 410-121-0146);

(b) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing for the quantity dispensed;

(c) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients which, when combined together would represent the prescribed drug, with the exception of compounded medications (see OAR 410-121-0146);

(d) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice.

(14) Prescription Volume Survey: A survey used by pharmaceutical providers which determines the providers dispensing rate. This survey documents for each pharmacy the total prescriptions dispensed, the total prescriptions dispensed to Medical Assistance Program clients, and if used, the types of unit dose system.

(15) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the State Board of Pharmacy.

(16) Unit Dose Delivery System:

(a) OMAP currently recognizes two types of unit dose dispensing systems:

(A) True Unit Dose. A True Unit Dose Delivery System requires that:

(i) Each nursing facility or community based living facility patient's medication be delivered a minimum of five days weekly, or delivery of medical carts every other day with daily (seven-days-a-week) service available;

(ii) Only the actual number of drug units used by the client during the billing period can be billed to OMAP;

(iii) Resumption of the same medication after a "stop order" or discontinuance ("DC") order constitutes a new prescription;

(iv) The closing date for the monthly billing period shall remain the same for all clients;

(v) Small quantity prescriptions are allowed only when the closing date for the monthly billing period is interrupted, e.g., hospitalization, new patient admit, etc.

(B) Modified Unit Dose. A Modified Unit Dose Delivery System requires that:

(i) A pharmacy must deliver each nursing facility or community based living facility client's medication in a sealed single-or multi-dose packages;

(ii) A pharmacy must dispense the greater of the quantity prescribed or a 30-day supply, except when short-term therapy is specified by the prescriber;

(iii) Only the actual number of drug units used by the client during the monthly billing period or during the prescribed medication period can be billed to OMAP;

(iv) The provider must credit OMAP for all unused medications as established by the State Board of Pharmacy;

(v) OMAP will be billed for the date of dispensing within the timely filing limit;

(vi) Manufacturer's Unit Dose packaging of drugs is not reimbursable.

(b) 30-Day Card:

(A) A 30-day blister pack, bingo or punch card containing multiple sealed single doses of medication. The pharmacy must have a system for dispensing and recovery of unused doses that has been approved by the State Board of Pharmacy;

(B) A 30-day card system which does not meet the requirements of the State Board of Pharmacy for recovery of unused doses, or for other reasons does not qualify for payment is not considered a True or Modified Unit Dose Delivery System.

(c) True and Modified Unit Dose providers must:

(A) Supply OMAP with a list of the facilities it will serve under this system;

(B) Sign an agreement to abide by the requirements of the program;

(C) Keep a separate, detailed Medication Administration (MAR) of all medications dispensed for each facility client served.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03); OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03

410-121-0160
Dispensing Fees

(1) Pharmacy providers must apply for an OMAP review of their pharmacy dispensing fee level by completing a Pharmacy Prescription Survey (OMAP 3062) when one of the following situations occurs:

(a) The pharmacy initiates dispensing medications to clients in facilities and the most recent two months worth of dispensing data is available. OMAP will only accept the most recent two months worth of data, or;

(b) The pharmacy discontinues dispensing medications to clients in facilities. The pharmacy provider is required to notify OMAP within 60 days and complete a new Pharmacy Prescription Survey with the most recent two-months worth of dispensing data available. OMAP will only accept the most recent two months worth of data, or;

(c) A completed Pharmacy Prescription Survey signed by the pharmacist in charge must be submitted to OMAP to initiate a review of dispensing fees.

(2) Unless otherwise provided, the professional dispensing fee allowable for services is as follows:

(a) $3.50;

(b) $3.91 for Pharmaceutical providers operating with a True or Modified Unit Dose Delivery System as defined by OMAP.

(3) The True or Modified Unit Dose Delivery System applies to those providers who give this service to over 50 percent of their patient population base associated with a particular Medicaid provider number.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 51-1983(Temp), f. 9-30-83, ef. 10-1-83; AFS 56-1983, f. 11-17-83, ef. 12-1-83; AFS 41-1984(Temp), f. 9-24-84, ef. 10-1-84; AFS 1-1985, f. & ef. 1-3-85; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85; AFS 66-1985, f. 11-5-85, ef. 12-1-85; AFS 13-1986(Temp), f. 2-5-86, ef. 3-1-86; AFS 36-1986, f. 4-15-86, ef. 6-1-86; AFS 52-1986, f. & ef. 7-2-86; AFS 12-1987, f. 3-3-87, ef. 4-1-87; AFS 28-1987(Temp), f. & ef. 7-14-87; AFS 50-1987, f. 10-20-87, ef. 11-1-87; AFS 41-1988(Temp), f. 6-13-88, cert. ef. 7-1-88; AFS 64-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0101; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 20-1990, f. & cert. ef. 7-9-90; Renumbered from 461-016-0260; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 21-1993(Temp), f. & cert. ef. 9-1-93; HR 12-1994, f. 2-25-94, cert. ef. 2-27-94; OMAP 5-1998(Temp), f. & cert. ef. 2-11-98 thru 7-15-98; OMAP 22-1998, f. & cert. ef. 7-15-98; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 50-2001(Temp) f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 60-2001, f. & cert. ef. 12-11-01; OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03

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Adm. Order No.: OMAP 33-2003
Filed with Sec. of State: 4-15-2003
Certified to be Effective: 4-15-03
Notice Publication Date: 12-1-02
Rules Amended: 410-141-0500
Subject: The Oregon Health Plan Medicaid Demonstration Project rules govern Office of Medical Assistance Programs payment for health services provided to eligible clients. Rule 410-141-0500 is permanently amended to correct text incorrectly submitted to the Secretary of State on February 1, 2003. In section (1)(c) "Any treatment, service, or item for a condition that is not listed on the currently funded lines 1 through 574..." the correct text is "1 through 558" reflecting the same information in OAR 410-141-0480 and 410-141-0520.
Rules Coordinator: Darlene Nelson—(503) 945-6927

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 558 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;

(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; OMAP 33-2003, f. & cert. ef. 4-15-03

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Department of Human Services, Public Health
Chapter 333

Adm. Order No.: PH 3-2003
Filed with Sec. of State: 3-27-2003
Certified to be Effective: 3-27-03
Notice Publication Date: 7-1-02
Rules Adopted: 333-100-0057, 333-100-0080, 333-101-0003, 333-102-0040, 333-102-0190, 333-102-0247, 333-102-0350, 333-102-0355, 333-102-0360, 333-102-0365, 333-105-0003, 333-105-0050, 333-105-0075, 333-105-0420, 333-105-0430, 333-105-0440, 333-105-0450, 333-105-0460, 333-105-0470, 333-105-0480, 333-105-0490, 333-105-0500, 333-105-0510, 333-105-0520, 333-105-0530, 333-105-0540, 333-105-0550, 333-105-0560, 333-105-0570, 333-105-0580, 333-105-0590, 333-105-0600, 333-105-0610, 333-105-0620, 333-105-0630, 333-105-0640, 333-105-0650, 333-105-0660, 333-105-0670, 333-105-0680, 333-105-0690, 333-105-0700, 333-105-0710, 333-105-0720, 333-105-0730, 333-105-0740, 333-105-0750, 333-105-0760, 333-106-0750, 333-116-0025, 333-116-0035, 333-116-0055, 333-116-0057, 333-116-0059, 333-116-0105, 333-116-0107, 333-116-0165, 333-116-0265, 333-116-0495, 333-116-0515, 333-116-0525, 333-116-0573, 333-116-0577, 333-116-0583, 333-116-0585, 333-116-0587, 333-116-0605, 333-116-0905, 333-116-0910, 333-116-0915, 333-118-0800, 333-120-0015, 333-120-0017, 333-120-0215
Rules Amended: 333-100-0001, 333-100-0005, 333-100-0060, 333-100-0065, 333-100-0070, 333-101-0001, 333-101-0010, 333-102-0001, 333-102-0005, 333-102-0010, 333-102-0015, 333-102-0020, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0075, 333-102-0101, 333-102-0103, 333-102-0105, 333-102-0110, 333-102-0120, 333-102-0125, 333-102-0130, 333-102-0135, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0245, 333-102-0250, 333-102-0255, 333-102-0260, 333-102-0265, 333-102-0270, 333-102-0275, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0300, 333-102-0305, 333-102-0310, 333-102-0315, 333-102-0327, 333-102-0330, 333-102-0335, 333-102-0340, 333-103-0015, 333-105-0001, 333-105-0005, 333-106-0005, 333-106-0035, 333-106-0045, 333-106-0055, 333-106-0101, 333-106-0105, 333-106-0210, 333-106-0220, 333-106-0325, 333-106-0575, 333-106-0700, 333-106-

0710, 333-106-0720, 333-106-0730, 333-111-0010, 333-116-0010, 333-116-0020, 333-116-0040, 333-116-0050, 333-116-0070, 333-116-0080, 333-116-0090, 333-116-0100, 333-116-0120, 333-116-0125, 333-116-0140, 333-116-0150, 333-116-0160, 333-116-0170, 333-116-0180, 333-116-0190, 333-116-0200, 333-116-0250, 333-116-0260, 333-116-0290, 333-116-0300, 333-116-0310, 333-116-0320, 333-116-0330, 333-116-0340, 333-116-0350, 333-116-0360, 333-116-0370, 333-116-0380, 333-116-0390, 333-116-0410, 333-116-0420, 333-116-0430, 333-116-0440, 333-116-0450, 333-116-0460, 333-116-0470, 333-116-0480, 333-116-0490, 333-116-0530, 333-116-0540, 333-116-0560, 333-116-0570, 333-116-0580, 333-116-0590, 333-116-0600, 333-116-0610, 333-116-0640, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0720, 333-116-0730, 333-116-0830, 333-118-0020, 333-118-0040, 333-118-0050, 333-118-0060, 333-118-0070, 333-118-0080, 333-118-0090, 333-118-0100, 333-118-0110, 333-118-0120, 333-118-0130, 333-118-0140, 333-118-0150, 333-118-0160, 333-118-0170, 333-118-0180, 333-118-0190, 333-118-0200, 333-119-0030, 333-119-0040, 333-119-0080, 333-119-0090, 333-119-0100, 333-119-0120, 333-120-0100, 333-120-0110, 333-120-0130, 333-120-0170, 333-120-0180, 333-120-0190, 333-120-0200, 333-120-0210, 333-120-0220, 333-120-0230, 333-120-0240, 333-120-0250, 333-120-0320, 333-120-0400, 333-120-0420, 333-120-0430, 333-120-0450, 333-120-0460, 333-120-0520, 333-120-0540, 333-120-0550, 333-120-0560, 333-120-0600, 333-120-0610, 333-120-0640, 333-120-0650, 333-120-0660, 333-120-0670, 333-120-0680, 333-120-0700, 333-120-0710, 333-120-0720

Rules Repealed: 333-102-0225, 333-102-0240, 333-102-0287, 333-102-0295, 333-105-0101, 333-105-0105, 333-105-0110, 333-105-0115, 333-105-0120, 333-105-0125, 333-105-0130, 333-105-0135, 333-105-0140, 333-105-0201, 333-105-0202, 333-105-0205, 333-105-0210, 333-105-0301, 333-105-0305, 333-105-0310, 333-105-0315, 333-105-0320, 333-105-0325, 333-105-0330, 333-105-0335, 333-116-0510

Subject: To update and maintain compatibility with Nuclear Regulatory Commission regulations for radioactive materials, a requirement of our Agreement State status. Additional changes utilize guidance from the Suggested State Regulations for the Control of Radiation published by the Conference of Radiation Control Program Directors. The following is a general description of the changes:

333-100 - General Provisions: added several new definitions, added maintenance of records and deliberate misconduct, text clarification and/or minor corrections.

333-101 Registration of Radiation Machines, General License Radioactive Materials, Licensing of Radiation Services and Accreditation of Hospital Radiology Inspectors: added definitions, changing radiation units to Standard International units.

333-102 - Licensing of Radioactive Material: added several new definitions, expanded and clarified Scope, clarification of license types, specifically identifies information required by general licensee, additional requirements for certain measuring, gauging or controlling devices, added General License to Install Devices Generally Licensed, added new Application for Specific Licenses, changed General Requirements for the Issuance of Specific Licenses, moved radiography licensing requirements to Division 333-105, added Records and Material Transfer Reports, changed Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116, deleted Manufacture and Distribution of Generators or Reagent Kits for Preparation of Radiopharmaceutical Containing Radioactive Material, deleted Filing Application for Specific Licenses, changes to Specific Terms and Conditions of License, adding financial Assurance and Recordkeeping for Decommissioning, added Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas, added requirements to section on reciprocity, added Reporting Requirements, added Records, added Right to Cause the Withholding or Recall of Byproduct Material, added Third Party Method, other clarifications and editorial corrections.

333-103 - Clarification of applicability in Annual Registration Fee for General Licenses and Devices.

333-105: Major re-write to include certification of industrial radiographers using radioactive sources.

333-106: Added definitions, changes in flouroscopy training and usage requirements, changes in mammography requirements, correction of formulas and tables.

333-111: Added three year frequency for training.

333-116: Change in scope, new and edited definitions, added Application for License, Amendment, or Renewal, changed notification requirements, exemptions for Broad Scope A licensees, added License Issuance, added Specific Exemptions, additional requirements for Radiation Safety Officer, additional requirements for Statement of Authorities and Responsibilities, changes for Supervision, added Written Directives, added Procedures for Administrations Requiring a Written Directive, clarified requirements for Possession, Use, Calibration and Check of Dose Calibrators, added Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides, changes to Assay of Radiopharmaceutical Doses, added new sources to Authorization for Calibration and Reference Source, added Release of Individuals Containing Radiopharmaceuticals or Implants, added requirements for compounding radiopharmaceuticals, changes to Use of Radiopharmaceuticals for Therapy, expanded Teletherapy to include Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, change in requirements for Installation, Maintenance, Adjustment, and Repair of therapy units, added Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, added use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit, added Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, changes to Dosimetry Equipment, clarification for Full Calibration Measurement, added Full Calibration Measurements on Remote Afterloader Units, added Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units, added Periodic Spot-checks for Remote Afterloader Units, added Additional Technical Requirements for Mobile Remote Afterloader Units, added Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units, added Therapy-related Computer Systems, added Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units, other minor clarifications and editorial corrections.

333-118: Several changed and new definitions, changes to Transportation of Radioactive Material, General License Requirements, Previously Approved Packages, U.S. Department of Transportation Specification Container, updated table of A1 and A2 quantities.

333-119: Added requirement for posting public notice, delete requirement for providing removable plastic sheets, operator training required within 12 months, removed date expired requirements, clarified token use.

333-120: Added definitions, changed radiation measurement units to Standard International units, added information dose calculations for fluoroscopy, change in monitoring requirements, added location of Individual Monitoring Devices, clarified requirements for Control of Access To certain Radiation Areas, added requirements for storage (securing) radiation sources, clarification of posting requirements, change in radiation survey requirements for package receipt, other minor clarification and editorial corrections.

Rules Coordinator: Jana Fussell—(503) 731-4320

333-100-0001
Scope

Except as otherwise specifically provided, these rules apply to all persons who acquire receive, possess, use, transfer, own, or dispose of any

source of radiation; provided, however, that nothing in these rules shall apply to any person to the extent such person is subject to regulation by the U.S. Nuclear Regulatory Commission.

NOTE: Attention is directed to the fact that state regulation of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission and to 10 CFR Part 150 of the Commission's regulations.

[Publications: Publications referenced are available for review at Oregon Health Services, Radiation Protection Services office.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605 - ORS 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-100-0005
Definitions

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain Division will be found in that Division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 to 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7 x 1010 disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agency" means Radiation Protection Services of Oregon Health Services.

(8) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(9) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(10) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DAC's) specified in appendix B, Table I, to 10 CFR Part 20.1001 to 20.2401, or;

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(11) "ALARA" (acronym for "As Low As Reasonably Achievable" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(12) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(13) "Annual": Occurring every year or within a consecutive twelve month cycle.

(14) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(15) "As Low As Reasonably Achievable" see "ALARA".

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the Agency.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute " byproduct material " within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days, for Class W, Weeks, from 10 to 100 days , and for Class Y, Years, of greater than 100 days. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 to 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \%w_T H_{T,50}$).

(30) "Contamination" (Radioactive) means: deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to

remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration (DAC)" means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" HT means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment. [($H_{E,50} = \%W_T H_{T,50}$).]

(42) "Effective dose equivalent (H_E)" means the sum of the products of the dose equivalent to the organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \%w_T H_T$).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means (a) the quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram. (b) being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm^2).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, and not moved, that is, not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray"(Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means (a) the professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this agency, they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or (b) any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "High radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates.

(61) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(62) "Individual" means any human being.

(63) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(64) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(65) "Inhalation class" (see "Class").

(66) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Agency.

(67) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(68) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(69) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage

through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(70) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(71) "License" means a license issued by the Agency in accordance with rules adopted by the Agency.

(72) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Agency. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(73) "Licensee" means any person who is licensed by the Agency in accordance with these rules and the Act.

(74) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(75) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(76) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(77) "Lung class" (see "Class").

(78) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in section Division 118 of this Chapter.

(79) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(80) "Minor" means an individual less than 18 years of age.

(81) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(82) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(83) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(84) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

(85) "Natural thorium" means thorium-232 in equilibrium with all decay products.

(86) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium- 235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(87) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(88) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form".

(89) "NRC" is the acronym for Nuclear Regulatory Commission.

(90) "Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(91) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties for a licensee or registrant involve exposure to sources of radiation, whether or not the sources of radiation are in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received from background radiation, or as a patient from medical practices, or from voluntary participation in medical research programs, or as a member of the public.

(92) "Package" means packaging together with its radioactive contents as presented for transport.

(93) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(94) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(95) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices".

(96) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy. (See also Authorized Nuclear Pharmacist).

(97) "Physician" means an individual licensed by the Oregon State Board of Medical Examiners to dispense drugs in the practice of medicine.

(98) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

NOTE: Although there is an annual occupational radiation dose limit, additional dose is permitted provided the situation is planned in advance and a justification is provided that the extra dose is necessary. There is a limit to planned special exposures (PSEs) of 1 times the annual limit in any year and 5 times the annual limit in a lifetime. This translates to: [Table not included. See ED. NOTE.]

(99) "Portable gauge" means a measuring or controlling device that is intended to be portable, that is, not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(100) "Public dose" means the dose received by a member of the public by exposure to sources of radiation from licensed or registered operations. Public dose does not include occupational dose, or dose received from background radiation, or dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

(101) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130 %F (54.4 %C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(102) "Qualified expert" means an individual, approved by the Agency, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual shall:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed 1 year of documented, full time training in the appropriate field and also 1 year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual shall have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Department for specific activities.

(103) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this Division) that is used to derive dose equivalent from absorbed dose.

(104) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(105) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(106) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Agency has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Agency has determined to present a biological hazard to the occupational or public health and safety.

(107) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(108) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(109) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules;

(b) The representative of licensee management, authorized by the Agency, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(110) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously. Radioactive material, as used in these rules, includes:

(a) Byproduct material, as defined in OAR 333-100-0005(19)(a), naturally occurring radioactive material, and accelerator produced material; and

(b) Source material and byproduct material, as defined in OAR 333-100-0005(19)(b).

(111) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of OAR 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(112) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(113) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(114) "Registrant" means any person who is registered with the Agency and is legally obligated to register with the Agency pursuant to these rules and the Act.

(115) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device shall furnish information to the Agency in accordance with the rules adopted by the Agency.

(116) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(117) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(118) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(119) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(120) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(121) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58×10^{-4} Coulombs/kilogram of air (see "Exposure" and division 120).

(122) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(123) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(124) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(125) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(126) "Shallow dose equivalent" (H_s), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2) averaged over an area of 1 square centimeter.

(127) "SI" means the abbreviation for the International System of Units.

(128) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). See OAR 333-100-0070(2).

(129) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(130) "Source material" means material, in any physical or chemical form, including ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(131) "Source material milling" means any activity that results in the production of byproduct material, as defined by the definition in OAR 333-100-005(19)(b), "Byproduct material".

(132) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(133) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31. 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(134) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(135) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one (1).

For example, the following quantities in combination would not exceed the limitation and are within the formula: *

$$\frac{\text{* 175 (grams contained U-235)}}{350} + \frac{\text{50 (grams U-233)}}{200} + \frac{\text{50 (grams Pu)}}{200} = 1$$

(136) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(137) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(138) "Supervision" as used in these rules, shall mean the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the agency.

(139) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(140) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(141) "Test" means the process of verifying compliance with an applicable rule.

(142) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(143) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(144) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in OAR 333-120-650(1)(d).

(145) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(146) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(147) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(148) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(149) "Uranium — depleted, enriched":

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes;

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(150) "Validation certificate" means the official document issued upon payment to the Agency of the appropriate fee listed in Division 103 of these rules. The license or registration is subject and void without the annual validation certificate.

(151) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.)

(152) "Waste" means radioactive waste.

(153) "Week" means 7 consecutive days starting on Sunday.

(154) "Weighting factor" w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS

Organ or Tissue — W_T
Gonads — 0.25
Breast — 0.15
Red Bone Marrow — 0.12
Lung — 0.12
Thyroid — 0.03
Bone Surfaces — 0.03
Remainder — 0.30[a]
Whole Body — 1.00[b]

[a] 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

[b] For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(155) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(156) "Worker" means an individual engaged in work under a license or registration issued by the Agency and controlled by a licensee or registrant, but does not include the licensee or registrant.

(157) "Working level" (WL) means any combination of short-lived radon progeny in 1 liter of air that will result in the ultimate emission of 1.3 x 10^5 MeV of potential alpha particle energy. The short-lived radon-222 progeny are polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(158) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(159) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendicies referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03

333-100-0057
Maintenance of Records

Each record required by this Division shall be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability of producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.685 & ORS 453.761
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-100-0060
Inspections

(1) Each licensee and registrant shall afford to the Agency at all reasonable times opportunity to inspect sources of radiation and radioactive material and the premises and facilities wherein such sources of radiation and radioactive material are used or stored.

(2) Each licensee and registrant shall make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to the rules in this Chapter.

(3) Within the available resources of the Agency, X-Ray Machine Registrants shall be inspected at the following frequency based upon the class of X-Ray machine(s) registered:

Hospitals — Every year
Radiologists — Every year
Chiropractors — Every two years
Osteopaths — Every two years
Medical — Every two years
Podiatry — Every three years
Dental — Every three years
Veterinary — Every three years
Academic — Every three years
Industrial — Every three years

Notwithstanding the above, the Agency may inspect more frequently as deemed necessary to protect public health and safety.

NOTE: Nothing in this section affects the fee schedule in ORS 453.670 for X-Ray machine registrants.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.685 & ORS 453.761
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 16-1994, f. & cert. ef. 6-27-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-100-0065
Tests

Each licensee and registrant shall perform, or permit the Agency to perform, such tests as the Agency deems appropriate or necessary for the administration of the rules in this division and divisions 101, 105, 106, 108, 109, 112, 113, 115, 116, 117, 119, and 121 of this chapter including, but not limited to, tests of:

(1) Sources of radiation and radioactive material;

(2) Facilities wherein sources of radiation and radioactive material are used or stored;

(3) Radiation detection and monitoring instruments; and

(4) Other equipment and devices used in connection with the utilization or storage of licensed or registered sources of radiation and radioactive material.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.685 & ORS 453.752
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-81-91; PH 3-2003, f. & cert. ef. 3-27-03

333-100-0070
Units of Exposure and Dose

The Metric Conversion Act of 1975 (PL 94-168) urged the increasing awareness and use of the International System of Units (SI). The generally accepted regulatory values in the narrative portions of this document are followed by the SI equivalents in parentheses. Where appropriate, schedules and appendices are provided with notes concerning conversion factors. The inclusion of the SI equivalent is for informational purposes only.

(1) The unit of exposure is the coulomb per kilogram (C/kg). One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

(2) The units of radiation dose are:

(a) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule per kilogram (100 rad);

(b) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy);

(c) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(d) Sievert is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(e) As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in 10 CFR 20 part 20.1004 Table 1004(b).1.

(3) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sieverts per hour, as provided in paragraph (b) of this section, 1 rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from 10 CFR 20 part 20.1004 Table 1004(b).2 (at the end of this division) to convert a measured tissue dose in gray or rad to dose equivalent in sievert rem. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced in this rule are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 - ORS 453.635
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-100-0080
Deliberate Misconduct

(1) Any licensee or any employee of a licensee; and any contractor (including a supplier or consultant), subcontractor, or any employee of a contractor or subcontractor, of any licensee, who knowingly provides to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this part; may not:

(a) Engage in deliberate misconduct that causes or, but for detection, would have caused, a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation of any license, issued by the Agency; or

(b) Deliberately submit to the Agency, a licensee, or a licensee's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Agency.

(2) A person who violates paragraph (1)(a) or (1)(b) of this rule may be subject to enforcement action in accordance with OAR 333-100-0035.

(c) For purposes of paragraph (1)(a) of this rule, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee to be in violation of any rule, regulation, or order, or any term, condition, or limitation, of any license issued by the Agency; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order or policy of a licensee, contractor, or subcontractor.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 - ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-101-0001
Purpose and Scope

(1) This Division provides for the registration of radiation machines, general license radioactive materials, and for the licensing of persons providing radiation machine, radioactive material, or tanning installation, consultation, servicing, and/or services, and hospital radiology inspectors performing hospital X-ray machine inspections, unless such activities are subject to other Divisions of these Rules.

(2) In addition to the requirements of this Division, all licensees, registrants, and accredited individuals are subject to the applicable provisions of other portions of these rules.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 3-2003, f. & cert. ef. 3-27-03

333-101-0003
Definitions

(1) "Facility" means the location, building, vehicle, or complex under one administrative control, at which one or more devices or sources of radiation (X-ray, radioactive materials, or non-ionizing radiation) are installed.

(2) "Health Physics Consultant" means a person, business, facility, or institution providing health physics knowledge and skills for a fee. A health physics consultant may not use or possess radioactive material without specific license authorization pursuant to OAR 333-102-0200.

(3) "Inoperable" means disabling equipment such that ionizing radiation cannot be produced. This is accomplished by removing the X-ray tube, removal of the control unit, removal of the power supply or physical removal of the power cord on a free standing unit.

(4) "Storage" means a condition in which a device or source is not being used for an extended period of time, and has been made inoperable.

(5) "Vendor" means a person, business, facility, or institution providing a product or service for a fee. Radiation vendors include machine salespersons, repair and technical personnel, or marketing representatives who sell, demonstrate, or market x-ray machines or tanning beds and provide advice, consultation, service, or technical information to registrants.

Stat. Auth.: ORS Ch. 453.605 - 453.807
Stats. Implemented: ORS 453.685, 453.761
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-101-0010
Exemptions

(1) Electronic equipment that produces radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Division, providing dose equivalent rate averaged over an area of 10 square centimeters does not exceed 5 μSv (0.5 millirem) per hour at five centimeters from any accessible surface of such equipment. The production, testing or factory servicing of such equipment shall not be exempt.

(2) Radiation machines while in transit or inoperable are exempt from the requirements of this Division. For the purposes of registration and fees, the Agency considers an X-ray unit to be inoperable only if the machine's X-ray tube (insert) has been removed or the machine disassembled. With the X-ray tube in place, and the machine assembled, the unit is considered to be operable. If a machine is "in storage," it must be registered and charged a registration fee. However, an 'inoperable" machine need not be registered or assessed a fee.

(3) Domestic television receivers are exempt from the requirements of this Division.

(4) Electron microscopes are exempt from the requirements of this Division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 μSv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

NOTE: Electron microscope: A type of microscope which uses electrons to produce magnified images and may therefore produce ionizing radiation incidental to its use.

(5) Electron beam welding machines and electron beam furnaces are exempt from the requirements of this Division, provided that the dose equivalent rate, averaged over an area of 10 square centimeters, does not exceed 5 μSv (0.5 millirem) per hour at five centimeters from any accessible surface of the equipment.

(6) Persons licensed under OAR 333-102-0200 or equivalent specific licenses rules under an Agreement State or the U.S. Nuclear Regulatory Commission are exempt from this requirement.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0001
Purpose and Scope

(1) This Division prescribes rules applicable to all persons in the State of Oregon governing licensing of radioactive material, and for exemptions from licensing requirements. No person shall receive, produce, possess, use, transfer, own or acquire radioactive material except as authorized in a specific or general license pursuant to this Division or divisions 105, 113, 115, 116, 117, or 121 of this chapter.

(2) In addition to the requirements of division 102, all licensees are subject to applicable requirements in divisions 100, 103, 111, 118, and 120 of this chapter. The requirements of this Division are in addition to, and not in substitution for, other requirements of this chapter. In any conflict between the requirements in this Division and a specific requirement in another division of the rules in this chapter, the specific requirement governs.

(3) This Division establishes general licenses for the possession and use of source material and depleted uranium, for radioactive material contained in certain items, and for ownership of radioactive material.

(4) This Division gives notice to all persons who knowingly provide to any licensee, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's activities subject to this Division, that they may be individually subject to Agency actions pursuant to OAR 333-100-0035 or 333-100-0040.

(5) This Division prescribes requirements for the issuance of specific licenses to persons who manufacture or initially transfer items containing radioactive material for sale or distribution to persons granted a general license by this Division or to persons authorized by the US Nuclear Regulatory Commission to distribute to persons exempted from licensing requirements, and it prescribes certain rules governing holders of these licenses. In addition, this Division prescribes requirements for the issuance of specific licenses to persons who introduce radioactive material into a product or material owned by or in the possession of the licensee or another and rules governing holders of such licenses. Further, this Division describes procedures and prescribes requirements for the issuance of certificates of registration (governing radiation safety information about a product) to manufacturers or initial transferors of sealed source or devices containing sealed sources, which are to be used by persons specifically licensed under this Division or equivalent regulations of an Agreement State or the US Nuclear Regulatory Commission.

(6) The Agency may engage the services of qualified persons in order to assist the Agency in meeting the requirements of this Chapter, including, but not limited to, evaluating information that may be required under OAR 333-102-0200(6).

(7) Information provided to the Agency by an applicant for a license or by a licensee or information required by statute or by the Agency's rules, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

(8) Each applicant or licensee shall notify the Agency of information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety. An applicant or licensee violates this rule only if the applicant or licensee fails to notify the Agency of information that the applicant or licensee has identified as having a significant implication for public health and safety. Notification shall be provided to the Agency within two working days of identifying the information. This requirement is not applicable to information that already is required to be provided to the Agency by other reporting or updating requirements.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0005
Source Material

(1) Any person is exempt from this Division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this Division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or process such ore.

(3) Any person is exempt from this Division to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction;

(D) Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four (4) percent by weight and that this exemption shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, authorizing distribution by the licensee pursuant to 10 CFR Part 40;

(B) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in OAR 333-102-0005(3)(e)(B) and 333-102-0005(3)(e)(C) need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by 10 CFR 40.13(c)(5)(ii) in effect on June 30, 1969, which read CAUTION — RADIOACTIVE MATERIAL — URANIUM.

(C) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(D) This exemption shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium, and that this exemption shall not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

(B) The receipt, possession, use or transfer of thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 185 Bq (0.005 uCi) of uranium; or

(i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in OAR 333-102-0005(3) do not authorize the manufacture of any of the products described.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0010

Exempt Concentrations

(1) Except as provided in OAR 333-102-0010(2), any person is exempt from this Division to the extent that such person receives, possesses, uses, transfers, owns or acquires products containing radioactive material introduced in concentrations not in excess of those listed in 10 CFR Part 30.70 Schedule A.

(2) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under OAR 333-102-0010(1) or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State, or Licensing State except in accordance with a specific license issued pursuant to OAR 333-102-0245 or the general license granted by OAR 333-102-0340.

NOTE: 10 CFR Part 30.70 Schedule A referred to or incorporated by reference in this rule is attached to this Division or available from DHS-Oregon Health Services, Radiation Protection Services.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, 453.625, 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0015

Certain Items Containing Radioactive Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels shall be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels shall be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels shall be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at 10 centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface;

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at 10 centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in timepieces acquired prior to June 1, 1977.

(b) Lock illuminators containing not more than 15 millicuries (555 MBq) of tritium or not more than two millicuries (74 MBq) of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries (925 MBq) of tritium;

(e) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries (925 MBq) of tritium per thermostat;

(g) Electron tubes: Provided, That each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven (7) milligrams per square centimeter of absorber.

NOTE: For purposes of, 333-102-0015(1)(g) "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions shall not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under 333-102-0015(8).

(i) Spark gap irradiators containing not more than one microcurie (37 kBq) of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three gallons per hour (11.4 liters per hour).

(2) The exemptions contained in this rule shall not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefor;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under OAR 333-102-0015(2)(e), the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

NOTE: 10 CFR Part 30.71 Schedule B referred to or incorporated by reference in this rule is attached to this Division or available from the Oregon Health Services, Radiation Protection Services.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0020

Resins Containing Scandium-46, Designed for Sand Consolidation in Oil Wells

Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in sections 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0025

Gas and Aerosol Detectors Containing Radioactive Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license and from the rules in this Division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material shall have been manufactured, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of OAR 333-102-0260.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under OAR 333-102-0025(1), provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0030

Self-Luminous Products Containing Radioactive Material

(1) Tritium, Krypton-85 or Promethium-147. Except for persons who manufacture, process, produce or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85 or promethium-147, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.22 of 10 CFR Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this rule does not apply to tritium, krypton-85 or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(2) Radium-226. Any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers or owns articles containing less than 0.1 microcurie (3.7 kBq) of radium-226, which were acquired prior to July 1, 1977.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0035

Exempt Quantities

(1) Except as provided in OAR 333-102-0035(2) and 333-102-0035(3), any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in 10 CFR Part 30.71 Schedule B.

(2) This rule does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

(3)Any person who possesses radioactive material received or acquired under the general license formerly provided in OAR 333-102-0105(2) is exempt from the requirements for a license set forth in this part to the extent that such person possesses, uses, transfers or owns such radioactive material. Such exemption does not apply for radium-226.

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in 10 CFR Part 30.71 Schedule B, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under OAR 333-102-0035 or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.18 of 10 CFR Part 32 or by the Agency pursuant to OAR 333-102-0255, which license states that the radioactive material may be transferred by the licensee to persons exempt under this rule or the equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer or any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTE: 10 CFR Part 30.71 Schedule B referred to or incorporated by reference in this rule is attached to this Division or available from DHS-Oregon Health Services, Radiation Protection Services.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635

Hist.: HD 4-2985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0040

In Vivo Testing in Humans for H. Pylori Using Carbon-14 Labeled Urea

(1) Except as provided in 333-102-0040(3) and 333-102-0040(4), any person is exempt from the requirements for a specific license pursuant to this Division and division 116 of this chapter provided that such person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq (1 microcurie) carbon-14 urea (allowing for nominal variation that

may occur during the manufacturing process) each, for "in vivo" diagnostic use for humans.

NOTE: "Nominal variation" as used in this context means ± 10% of the reported per capsule dose.

(2) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to division 102 of this chapter.

(3) Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules shall apply for and receive a specific license pursuant to 10 CFR 32.21.

(4) Nothing in this rule relieves persons from complying with applicable FDA, other Federal, and State requirements governing receipt, administration, and use of drugs.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0075
Types of Licenses

Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in this Division are granted as being effective without the filing of applications with the Agency or the issuance of licensing documents to particular persons, except Depleted Uranium subject to OAR 333-102-0103, Measuring, Gauging, and Controlling devices subject to 333-102-0115, and In Vitro Clinical or Laboratory Testing subject to 333-102-0130.

(2) Specific licenses require the submission of an application to the Agency and the issuance of a specific licensing document by the Agency. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document. Specific licenses are issued to named persons upon applications filed pursuant to OAR 333-102-0200 and divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(3) General licenses granted by 333-102-0103, 333-102-0115, 333-102-0117, and 333-102-0130 require the submission of an application to the Agency for registration pursuant to 333-101-0007, payment of a fee in accordance with 333-103-0015, and the issuance of a registration (licensing document or general license acknowledgment) by the Agency.

(4) General licenses are subject to 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) Terms and Conditions of Licenses, 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 103, 111, 118, and 120 of this Chapter unless indicated otherwise in the language of the general license.

NOTE: Attention is directed particularly to the provisions of the regulations in Division 120 of this chapter that relate to the labeling of containers and notification of incidents.

(5) Any record required by this Division must be legible throughout the retention period specified by each Agency rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as letters, stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.655
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0101
General Licenses — Source Material

A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer not more than 15 pounds (6.82 kg) of source material at any one time for research, development, educational, commercial or operational purposes. A person authorized to use or transfer source material, pursuant to this general license, may not receive or possess more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

(1) Persons who receive, possess, use, or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are prohibited from administering source material, or the radiation therefrom, either externally or internally to human beings except as may be authorized by the Agency in a specific license.

(2) Persons who receive, possess, use or transfer source material pursuant to the general license granted by OAR 333-102-0101(1) are exempt from the provisions of divisions 111 and 120 of this Chapter to the extent that such receipt, possession, use or transfer is within the terms of such general license; provided, however, that this exemption shall not be deemed to apply to any such person who also is in possession of source material under a specific license issued pursuant to this Division.

(3) A general license is hereby granted authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

(4) Persons who receive, acquire, possess or use source material pursuant to the general license granted by OAR 333-102-0101(1) shall develop and maintain procedures to establish physical control over the source material and prevent transfer of such source material to persons not authorized to receive the source material.

(5) A person who receives, acquires, possesses or uses source material pursuant to the general license granted by OAR 333-102-0101(1):

(a) Shall not introduce such source material, in any form, into a chemical, physical, or metallurgical treatment or process;

(b) Shall not abandon such source material; and

(c) Shall transfer or dispose of such source material only by transfer in accordance with the provisions of OAR 333-102-0330 or 333-120-0500.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0103
General Licenses — Depleted Uranium in Industrial Products and Devices

(1) A general license is hereby granted to receive, acquire, possess, use or transfer, in accordance with the provisions of OAR 333-102-0103(2), 333-102-0103(3), 333-102-0103(4) and 333-102-0103(5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in OAR 333-102-0103(1) applies only to industrial products or devices that have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to OAR 333-102-0235 or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons granted a general license by the U.S. Nuclear Regulatory Commission or an Agreement State.

(3) Persons who receive, acquire, possess or use depleted uranium pursuant to the general license established by 333-102-0103(1) shall apply for registration of the general license pursuant to OAR 333-101-0007, and submit the required fee pursuant to 333-103-0015. Applicants will receive a validation certificate from the Agency application for registration shall be submitted within 30 days after the first receipt or acquisition of such depleted uranium.

(a) The general licensee shall provide the following information in accordance with the registration application required by OAR 333-101-0007 and such other information as may be required by that form:

(A) Name and address of the general licensee;

(B) A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in OAR 333-102-0103(1) and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in 333-102-0103 (3)(b).

(b) The general licensee possessing or using depleted uranium under the general license established by OAR 333-102-0103(1) shall report any changes in information in writing to the Agency within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses or uses depleted uranium pursuant to the general license established by OAR 333-102-0103(1):

(a) Shall not introduce such depleted uranium, in any form, into a chemical, physical or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(b) Shall not abandon such depleted uranium;

(c) Shall transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of OAR 333-102-0330. In the case where the transferee receives the depleted uranium pursuant to the general license granted by OAR 333-102-0103(1), the transferor shall furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 . In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to 333-102-0103(1), the transferor shall furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in this rule;

(d) Within 30 days of any transfer, shall report in writing to the Agency the name and address of the person receiving the depleted uranium pursuant to such transfer; and

(e) Shall not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using or transferring depleted uranium pursuant to the general license established by OAR 333-102-0103(1) is exempt from the requirements of divisions 111 and 120 of this chapter with respect to the depleted uranium covered by that general license.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0105
Certain Devices and Equipment

A general license is hereby granted to transfer, receive, acquire, own, possess and use radioactive material incorporated in the following devices or equipment that have been manufactured, tested and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to section 31.3 of 10 CFR Part 31. This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), and 333-100-0065 (Tests), 333-102-0010(2) (Exempt Concentrations), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and division 111, 118, and 120 of this chapter.

NOTE: Attention is directed particularly to the provisions of Division 120 of this Chapter that relate to the labeling of containers (OAR 333-120-0430 and 333-120-0440).

(1) Static Elimination Devices. Devices designed for use as static eliminators that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device;

(2) Ion Generating Tubes. Devices designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium-210 per device or a total of not more than 50 millicuries (1.85 GBq) of hydrogen-3 (tritium) per device.

NOTE: Different general licenses are issued in this Division, each of which has its own specific conditions and requirements.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0110
Luminous Safety Devices for Aircraft

(1) A general license is hereby granted to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:

(a) Each device contains not more than 10 curies (370 GBq) of tritium or 300 millicuries (11.1 GBq) of promethium-147; and

(b) Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license issued by the Agency or any Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in 10 CFR Part 32.53.

(2) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in OAR 333-102-0110(1) are exempt from the requirements of divisions 111 and 120 of this chapter except that they shall comply with the provisions of 333-120-0700 and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.

(4) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.

(5) This general license is subject to the provisions of OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), and 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(7) (Terms and Conditions of Licenses), 333-102-0330 (Transfer of Material), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and division 118 of this chapter.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0120
Ownership of Radioactive Material

A general license is hereby granted to own radioactive material without regard to quantity. Notwithstanding any other provisions of this Division, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0125
Calibration and Reference Sources

(1) A general license is hereby granted to those persons listed in OAR 333-102-0125(1)(a) and 333-102-0125(1)(b) to own, receive, acquire, possess, use, and transfer, in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5), americium-241, plutonium, and/or radium-226, in the form of calibration or reference sources:

(a) Any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material; and

(b) Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission that authorizes receipt, possession, use, and transfer of special nuclear material.

(2) A general license is hereby granted to own, receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5) to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer of radioactive material.

(3) A general license is hereby granted to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of 333-102-0125(4) and 333-102-0125(5) to any person who holds a specific license issued by the Agency that authorizes receipt, possession, use, and transfer radioactive material.

(4) The general licenses in OAR 333-102-0125(1), 333-102-0125(2), and 333-102-0125(3) apply only to calibration or reference sources that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to section 32.57 of 10 CFR Part 32 or section 70.39 of 10 CFR Part 70 or that have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Agency, any Agreement State or Licensing State pursuant to licensing requirements equivalent to those contained in section 32.57 of 10 CFR Part 32, or section 70.39 of 10 CFR Part 70.

(5) The general licenses provided in OAR 333-102-0125(1), 333-102-0125(2) and 333-102-0125(3) are subject to the provisions of 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections, 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) Terms and Conditions of Licenses, 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 111, and 120 of this chapter. In addition, persons who own, receive, acquire, possess, use or transfer one or more calibration or reference sources pursuant to these general licenses:

(a) Shall not possess at any one time, at any one location of storage or use, more than five microcuries (185 kBq) each of americium-241, of plutonium-238, plutonium-239, or of radium-226 in such sources; and

(b) Shall not receive, possess, use or transfer such source unless the source or the storage container, bears a label which includes one of the following statements, as appropriate, or a substantially similar statement that contains the information called for in one of the following statements, as appropriate:

(A) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM) DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____

Name of manufacturer or importer

NOTE: Show only the name of the appropriate material.

(B) The receipt, possession, use, and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.

CAUTION — RADIOACTIVE MATERIAL — THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

_____

Name of manufacturer or importer

(c) Shall not transfer, abandon or dispose of such source except by transfer to a person authorized by a specific license from the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;

(d) Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium, or radium-226 that might otherwise escape during storage; and

(e) Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(6) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium, or radium-226.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625

Hist.: HD 4-1085, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0130

General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

(1) A general license is hereby granted to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with OAR 333-102-0130(2), 333-102-0130(3), 333-102-0130(4), 333-102-0130(5) and 333-102-0130(6), the following radioactive materials in prepackaged units for use in in Vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(a) Iodine-125 in units not exceeding 10 microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(b) Iodine-131, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(c) Carbon-14, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(e) Iron-59 in units not exceeding 20 microcuries (740 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(f) Selenium-75, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(g) Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcuries of iodine-129 and 0.005 microcuries of americium-241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(2) A person shall not receive, acquire, possess, use or transfer radioactive material under the general license granted by section OAR 333-102-0130(1) unless that person:

(a) Has filed the required Agency application for registration pursuant to OAR 333-101-0007 and submitted the registration fee pursuant to 333-103-0015 and received from the Agency a validated license with certification number assigned, or

(b) Has a license that authorizes the medical use of byproduct material that was issued under OAR 333-116 of this chapter.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by section 333-102-0130(1) of this rule shall comply with the following:

(a) The general licensee shall not possess at any one time, at any one location of storage or use a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 200 microcuries (7.4 MBq);

(b) The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection;

(c) The general licensee shall use the radioactive material only for the uses authorized by OAR 333-102-0130(1);

(d) The general licensee shall dispose of the mock iodine-125 reference or calibration sources described in 333-102-0130(1)(g) of this rule as required by OAR 333-120-0500 and OAR 333-102-0130(6);

(e) The general licensee shall not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(4) The general licensee shall not receive, acquire, possess or use radioactive material pursuant to OAR 333-102-0130(1):

(a) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued by the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59 or mock iodine-125 for distribution to persons generally licensed under section (1) of this rule or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____

Name of Manufacturer

(B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____

Name of Manufacturer

(5) The registrant possessing or using radioactive material granted by the general license of section OAR 333-102-0130(1) shall report in writing to the Agency any changes in the information furnished on the required Agency form. The report shall be furnished within 30 days after the date of such change.

(6) Any person using radioactive material pursuant to the general license granted by OAR 333-102-0130(1) is exempt from the requirements of Divisions 111 and 120 of this chapter with respect to radioactive material covered by that general license, except that such persons using mock

iodine-125 described in OAR 333-102-0130(1)(g) shall comply with provisions of OAR 333-120-0500, 333-120-0700 and 333-120-0710.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0135
Ice Detection Devices

(1) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than 50 microcuries (1.85 MBq) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license issued by the Agency or an Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in section 32.61 of 10 CFR Part 32.

(2) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license granted by OAR 333-102-0135(1):

(a) Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license from the Agency, the U.S. Nuclear Regulatory Commission or any other Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of OAR 333-120-0500;

(b) Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon; and

(c) Are exempt from the requirements of divisions 111 and 120 of this chapter except that such persons shall comply with the provisions of OAR 333-120-0500, 333-102-0700, and 333-120-0710.

(3) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 in ice detection devices.

(4) This general license is subject to the provisions of OAR 333-100-0005, Definitions; 333-100-0025, Exemptions; 333-100-0030, Additional Requirements; 333-100-0055, Records; 333-100-0060(1) and 333-100-0060(2), Inspections; 333-100-0065, Tests;, 333-102-0305(1) through 333-102-0305(8), Terms and Conditions of Licenses; 333-102-0330, Transfers; 333-102-0335, Modification, Revocation, and Termination of Licenses; and division 118 of this chapter.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.635
Hist.: HD 4-1985, f. &ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0190
Application for Specific Licenses.

(1) Applications for specific licenses shall be filed on a form prescribed by the Agency. Information contained in previous applications, statements or reports filed with the Agency, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Agency may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Agency to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application shall be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) An application for a license filed pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Agency and the US Nuclear Regulatory Commission as to applications for such licenses.

(5) Each new application for a radioactive material license shall be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in 333-103-0010.

(6) An application for a license to receive and possess radioactive material for the conduct of any activity that the Agency has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(7) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or

(b) Contain the information identified in 10 CFR Part 32.210(c).

(8) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

NOTE: If a renewal application was submitted on or before July 27, 1990, the decommissioning information may follow the renewal application but must be submitted prior to the license being issued.

(9)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release,'" must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under OAR 333-102-0190(9)(a)(A) of this section:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range would be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material would reduce the dose received;

(E) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures would prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (9)(a)(B) of this section must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the Agency; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and

some equipment will not prevent the notification and coordination. The licensee also shall commit to notify the Agency immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not superceed or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Agency.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(d) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to Agency. The licensee shall provide any comments received within the 60 days to the Agency with the emergency plan.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0200
General Requirements for the Issuance of Specific Licenses

An application for a specific license, will be approved if:

(1) The application is for a purpose authorized by the Act;

(2) The applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property;

(3) The applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property;

(4) The applicant satisfies any applicable special requirements contained Divisions 102, 105, 113, 115, 116, 117, or 121 of this Chapter; and ;

(5) In the case of an application for a license to receive and possess radioactive material for the conduct of any activity which the Agency determines will significantly affect the quality of the environment, the Agency Manager or designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Subpart A of Part 51 of 10 CFR, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this rule, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. Upon a determination that an application meets the requirements of the Act, and the rules of the Agency, the Agency will issue a specific license authorizing the possession and use of radioactive material (Radioactive Materials License).

(6) Financial assurance and recordkeeping for decommissioning must meet the requirements of 10 CFR 30.35 and 10 CFR Part 30.36.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.655 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0203
Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this Division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe, etc. samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibraion (excluding activities authorized by OAR 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems", as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that will increase or concentrate any component (including the radioactive materials) to benefit the product;.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site.

(10) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(11) "Decontamination and Decommissioning" means (a) a facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; (b) activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(12) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(13) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a gener-

al license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter..

(14) "Exempt Source" means radioactive material, exempt from the rules in this Chapter.

(15) "Facility" means location of licensed activities under the direct control of licensee management. If a "Facility", as used in this Division, includes multiple separate addresses, the Agency may determine how the scope of licensed activities, pursuant to OAR 333-102-0295, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(16) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-Ray & Hybrid Gauges pursuant to division 115 of this chapter, that contain both X-Ray sources and radioactive sealed sources.

(17) "General license" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(18) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0103.

(19) "General License Device" means the general license granted subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging, or controlling devices granted the general license by 333-102-0015.

(20) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(21) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(22) "General License for "Certain Devices and "Equipment" means the general license granted for use and possession of devices consisting for not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(23) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than 10 curies of tritium or not more than 300 millicuries of promethium-147.

(24) "General license for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(25) "General License for Calibration and Reference sources" means the general license granted to possess not more than five (5) microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(26) "General License for Ice Detection Devices" means the general license granted to possess not more than fifty (50) microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(27) "Generators and kits" means "Imaging and Localization."

(28) "Healing Arts Specific License" means a specific license authorizing activities in Division 116 of this Chapter.

(29) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or stationary, and which deliver a doserate in excess of 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed doserate remote afterloader.

(30) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an x-ray source, pursuant to Division 115 of this Chapter.

(31) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by OAR 333-102-0130(2).

(32) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(33) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(34) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(35) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this Chapter.

(36) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by Division 121 of this Chapter.

(37) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(38) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(39) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that should be accepted.

(40) "Low Doserate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a doserate of less than 2 Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(41) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in divison 102 of this chapter.

(42) "Manufacturing or Compounding and Distribution" (Manufacturing and Distribution) means "Manufacturing or Compounding" pursuant to OAR 333-102-0203(31) and "Distribution", pursuant to OAR 333-102-0203(12). Manufacturing activities and distribution activities require separate specific licenses.

(43) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(44) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05% source material.

(45) "Net working capital" means current assets minus current liabilities.

(46) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(47) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005(127), that generates neutrons that are used for analytical, teaching, or research purposes.

(48) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(49) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(n) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in Division 50 of Chapter 345 of the Oregon Administrative Rules (OAR). Except for Division 50 exemptions, any material that contains NORM requires a specific license. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(50) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry

activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility", see 333-102-0203(61).

(51) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103- 0010(2)(s) for activities authorized by 333-102-0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of OAR 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license should specify which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(52) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other non-portable analytical instruments, including those devices that contain multiple sources but are configured and used as a 'system', in accordance with the definition in 333-102-0203(73).

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(53) "Pool-type irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(54) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of 'portable gauge' and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(55) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by 333-116-0800 and included in the facility specific license issued pursuant to OAR 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(56) "Possession or storage of industrial wastes containing radioactive material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of OAR chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(57) "Possession or storage of uranium tailings" means activities incident to uranium processing or milling operations resulting in the production of tailings.

(58) "Principal activities" means activities authorized by the license that [which] are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(59) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (e.g., breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding".

(60) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(61) "Radioactive Material Not Otherwise Specified Facility)" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(62) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to OAR 333-102-0295, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(63) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with OAR 333-116-0360.

(64) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(65) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in OAR 333-100-0005(112), but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to OAR 333-103-0010 and 333-103-0015.

(66) "Responsible Representative" means the person designated as having responsibility for general license device or general license material; the person management has selected to certify general license inventory; and the individual responsible to the Agency and to management to ensure that all regulatory elements are adequate.

(67) "Sealed source/device evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Agency no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(68) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(69) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with OAR 333-116-0400.

(70) "Special Nuclear Material (sealed)" means a source-specific license issued pursuant to OAR 333-103-0010(2)(aa), authorizing the use, possession, or transfer of sealed sources (special form) containing special nuclear material, as defined in OAR 333-100-0005 (134). (See "Neutron Howitzer"; "Neutron Production".)

(71) "Special Nuclear Material (unsealed)" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(bb), authorizing the use, possession, or transfer of unsealed (normal form) special nuclear material, as defined in OAR 333-100-0005(134).

(72) "Specific license radioactive material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annoted on the specific license, and validated with a specific license fee pursuant to 333-103-010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(73) "System", as used in this chapter, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(74) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(75) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(76) "Temporary job site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the State if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(77) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(78) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to Agencies in the Oregon Health Services.

(79) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(80) "Use and Possession of Source Material " means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005(123), in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in Division 100 of this Chapter and the specific license (billable object) in division 103 of this chapter.

(81) Use of Xenon Gas means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to OAR 333-116-0280;

(82) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(83) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses shall be used only at one authorized site.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0235

Requirements for License to Manufacture, or Initially Transfer Radioactive Material Contained in Devices Granted a General License Under OAR 333-102-0115

(1) An application for a specific license to manufacture, or initially transfer devices containing radioactive material, excluding special nuclear material, to persons granted a general license by OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(a) The applicant satisfies the general requirements of OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) The device can be safely operated by persons not having training in radiological protection;

(B) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device; and it is unlikely that any person will receive in one (1) year a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100; and

(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in 10 CFR Part 32.24 :

(i) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye 150 mSv (15 rem)

(ii) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than one (1) square centimeter 2 Sv (200 rem)

(iii) Other organs 500 mSv (50 rem)

(c) Each device bears a durable, legible, clearly visible label or labels approved by the Agency, which contain in a clearly identified and separate statement:

(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(B) The requirements, or lack of requirement, for leak testing, or for testing of any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(C) The information called for in the following statement in the same or substantially similar form:

> The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or of a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.
>
> CAUTION — RADIOACTIVE MATERIAL
>
> _____
>
> (Name of manufacturer or initial transferor)

NOTE: Devices licensed under 10 CFR Part 32.51 prior to January 19, 1975 may bear labels authorized by the regulations in effect on January 1,1975. The model, serial number, and name of manufacturer, or initial transferor may be omitted from this label provided the information is elsewhere specified in labeling affixed to the device.

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or both, the applicant shall include in this application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under OAR 333-102-0115, or under equivalent rules of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, be authorized to install the device, collect the sample to be analysed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in OAR 333-120-0100.

(4) Prior to transfer of a device to a person granted a general license by OAR 333-102-0115(1), the licensee shall:

(a) Furnish a copy of the general license contained in OAR 333-102-0115 to each person to whom the licensee directly, or through an intermediate person, transferrs radioactive material in a device for use pursuant to the general license contained in OAR 333-102-0115;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State's rules equivalent to OAR 333-102-0115. Alternatively, a copy of the general license contained in OAR 333-102-0115 shall be furnished to each person to whom directly, or through an intermediate person, is transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the Agreement State or the Licensing State. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it shall be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State under requirements substantially the same as those in OAR 333-102-0115;

(c) Report to the Agency all transfers of such devices to persons for use under the general license in OAR 333-102-0115. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact and relationship to the intended user. If no transfers have been made to persons granted a general license by OAR 333-102-0115 during the reporting period, the report shall so indicate. The report shall cover each calendar quarter and shall be filed within 30 days after the end of each quarter;

(d) Furnish reports to other agencies

(A) Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 31.5 of 10 CFR Part 31. Reports must be submitted on the NRC form "Transferrs of Industrial Devices Report" or on a clear and legible report containing all of the data required by the form. The required information includes:

(i) The identity of each general licensee by name and address;

(ii) The name and phone number of the person designated by the general licensee to be responsible for ensuring compliance with the appropriate regulations and requirements;

(iii) The date of transfer; the type, model number, and serial number of the device transferred; and

(iv) The quantity and type of byproduct material contained in the device.

(v) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include the same information for each intermediate person, and clearly designate that person as an intermediate person.

(vi) If the device transferred replaced another returned by the general licensee, report also the type, model number, and serial number of the one returned.

(vii) If no transfers have been made to persons generally licensed under 10 CFR 31.5 or OAR 333-102-0115 during the reporting period, the report must so indicate.

(viii) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(ix) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.;

(B) Report to the responsible Agreement or Licensing State agency all transfers of such devices to persons for use under a general license in an Agreement State's regulations equivalent to OAR 333-102-0115. Such reports shall identify all of the information in 333-102-0235(4)(d), including each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report shall include identification of each intermediate person by name, address, contact and relationship to the intended user. The report shall be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person granted a general license;

(e) If no transfers have been made to U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission;

(f) If no transfers have been made to persons granted a general license within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency;

(g) Keep records showing the name, address and the point of contact for each general licensee to whom directly, or through an intermediate person is transferred radioactive material in devices for use pursuant to the general license provided in OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The records should show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person and compliance with the reporting requirements of 333-102-0235(4)(h). Records required by this rule must be maintained for a period of three years following the estimated useful life of the device or the date of final disposition, if known.;

(h) Furnish a list of the services that only can be performed by a specific licensee, and information on acceptable disposal options, including estimated costs of disposal, to each person to whom he directly, or through an intermediate person, transfers radioactive material in a device for use under the general license granted in 333-102-0115;

(i) Furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained. If a copy of the general license in OAR 102-0115 is furnished to such person, it shall be accompanied by a note explaining that use of the device is regulated by the Agreement State.

(j) Label each device transferred if more than one year after the effective date of this rule in accordance with the labeling requirements in § 32.51(a)(3) through (5).

(k) If a notification of bankruptcy has been made under § 30.34(h) or the license is to be terminated, provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under § 32.52(c).

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0245

Introduction of Radioactive Material in Exempt Concentrations into Products or Materials, and Transfer of Ownership or Possession: Requirements for License

An application for a specific license authorizing the introduction of radioactive material into a product or material owned by or in the possession of the licensee or another and the transfer of ownership or possession of the product or material containing the radioactive material: will be approved if the applicant:

(1) Satisfies the general requirements specified in OAR 333-102-0200;

(2) Provides a description of the product or material into which the radioactive material will be introduced, intended use of the radioactive material, and the product or material into which it is introduced, method of introduction, initial concentration of the radioactive material in the product or material, control methods to assure that no more than the specified concentration is introduced into the product or material, estimated time interval between introduction and transfer of the product or material, and estimated concentration of the radioiosotopes in the product or material at the time of transfer;

(3) Provides reasonable assurance that the concentrations of radioactive material at the time of transfer will not exceed the concentrations in 10 CFR Part 30.70 Schedule A, that reconcentrating of the radioactive material in concentrations exceeding those in 10 CFR Part 30.70 Schedule A is not likely, that use of lower concentrations is not feasible, and that the product or material is not likely to be incorporated in any food, beverage, cosmetic, drug or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

NOTE: 10 CFR Part 30.70 Schedule A referred to or incorporated by reference in this rule is attached to this Division or available from the Health Division.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, OSR 453.635 & ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0247

Records and Material Transfer Reports

(1) Each person licensed under OAR 333-102-0245 shall maintain records of transfer of material and file a report with the Agency.

(2) The report shall identify the:

(a) Type and quantity of each product or material into which radioactive material has been introduced during the reporting period;

(b) Name and address of the person who owned or possessed the product or material, into which radioactive material has been introduced, at the time of introduction;

(c) The type and quantity of radionuclide introduced into each such product or material; and

(d) The initial concentrations of the radionuclide in the product or material at time of transfer of the radioactive material by the licensee.

(3) The licensee shall file the report within 30 days following:

(a) Five years after filing the preceding report; or

(b) Filing an application for renewal of the license under OAR 333-102-0315; or

(c) Notifying the Agency under OAR 333-102-0305(5) of the licensee's decision to permanently discontinue activities authorized under the license issued under OAR 333-102-0245.

(4) The report must cover the period between the filing of the preceding report and the occurrence specified in paragraphs OAR 333-102-0247(3)(a), 333-102-0247(3)(b), or 333-102-0247(3)(c). If no transfers of radioactive material have been made under 333-102-0245 during the reporting period, the report shall so indicate.

(5) The licensee shall maintain the record of a transfer for a period of one year after the event is included in a report to the Agency.

(6) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under 10 CFR Part 30.14 or equivalent regulations of an Agreement State, except in accordance with a license issued pursuant to 10 CFR Part 32.11 or the general license provided in 10 CFR Part 150.20 (reciprocity).

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625,ORS 453.635 & ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0250

Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License

An application for a specific license to manufacture or distribute radioactive material for use under the general license specified in OAR 333-102-0130 or equivalent will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Carbon-14 in units not exceeding 10 microcuries (370 kBq) each;

(b) Cobalt-57 in units not exceeding 10 microcuries (370 kBq) each;

(c) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each;

(d) Iodine-125 in units not exceeding 10 microcuries (370 kBq) each;

(e) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each;

(f) Iodine-131 in units not exceeding 10 microcuries (370 kBq) each;

(g) Iron-59 in units not exceeding 20 microcuries (740 kBq) each;

(h) Selenium-75 in units not exceeding 10 microcuries (370 kBq) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 10 microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each; and

(b) Displaying the radiation caution symbol described in OAR 333-120-0400 and the words, CAUTION, RADIOACTIVE MATERIAL and Not for Internal or External Use in Humans or Animals.

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

_____
Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

_____
Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements in OAR 333-120-0500 of this chapter.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0255

Licensing the Distribution of Radioactive Material in Exempt Quantities

(1) An application for a specific license to distribute NARM to persons exempted from these rules pursuant to OAR 333-102-0035 will be approved if:

(a) The radioactive material is not contained in any food, beverage, cosmetic, drug or other commodity designed for ingestion or inhalation by, or application to, a human being;

(b) The radioactive material is in the form of processed chemical elements, compounds or mixtures, tissue samples, bioassay samples, counting standards, plated or encapsulated sources or similar substances, identified as radioactive and to be used for its radioactive properties, but is not incorporated into any manufactured or assembled commodity, product or device intended for commercial distribution; and

(c) The applicant submits copies of prototype labels and brochures and the Agency approves such labels and brochures.

(2) The license issued under this rule is subject to the following conditions:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) No more than 10 exempt quantities shall be sold or transferred in any single transaction. However, an exempt quantity may be composed of fractional parts of one or more of the exempt quantity provided the sum of the fractions shall not exceed unity;

(b) Each exempt quantity shall be separately and individually packaged. No more than 10 such packaged exempt quantities shall be contained in any outer package for transfer to persons exempt pursuant to OAR 333-102-0035. The outer package shall be such that the dose rate at the external surface of the package does not exceed 0.5 millirem (five μSv) per hour;

(c) The immediate container of each quantity or separately packaged fractional quantity of radioactive material shall bear a durable, legible label which:

(A) Identifies the radionuclide and the quantity of radioactivity; and

(B) Bears the words Radioactive Material.

(d) In addition to the labeling information required by OAR 333-102-0255(2)(c), the label affixed to the immediate container, or an accompanying brochure, shall:

(A) State that the contents are exempt from Licensing State requirements;

(B) Bear the words, Radioactive Material — Not for Human Use — Introduction into Foods, Beverages, Cosmetics, Drugs or Medicinals or into Products Manufactured for Commercial Distribution is Prohibited--Exempt Quantities Should Not Be Combined; and

(C) Set forth appropriate additional radiation safety precautions and instructions relating to the handling, use, storage and disposal of the radioactive material.

(3) Each person licensed under this rule shall maintain records identifying, by name and address, each person to whom radioactive material is transferred for use under OAR 333-102-0035 or the equivalent rules of any Agreement State or Licensing State and stating the kinds and quantities of radioactive material transferred. An annual summary report stating the total quantity of each radionuclide transferred under the specific license shall be filed with the Agency. Each report shall cover the year ending June 30, and shall be filed within 30 days thereafter. If no transfers of radioactive material have been made pursuant to this rule during the reporting period, the report shall so indicate.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0260

Licensing the Incorporation of Naturally Occurring and Accelerator-Produced Radioactive Material into Gas and Aerosol Detectors

An application for a specific license authorizing the incorporation of NARM into gas and aerosol detectors to be distributed to persons exempt under OAR 333-102-0025 will be approved if the application satisfies requirements equivalent to those contained in section 32.26 of 10 CFR Part 32. The maximum quantity of radium-226 in each device shall not exceed 0.1 microcurie (3.7 kBq).

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0265

Special Requirements for the Manufacture, Assembly or Repair of Luminous Safety Devices for Use in Aircraft

An application for a specific license to manufacture, assemble or repair luminous safety devices containing tritium or promethium-147 for

use in aircraft, for distribution to persons granted a general license by OAR 333-102-0110 will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.53, 32.54, 32.55, 32.56, 32.101, and 32.110 of 10 CFR Part 32 or their equivalent.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.655 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0270

Special Requirements for License to Manufacture Calibration Sources Containing Americium-241, Plutonium or Radium-226 for Distribution to Persons Granted a General License by OAR 333-102-0125

An application for a specific license to manufacture calibration and reference sources containing americium-241, plutonium or radium-226 to persons granted a general license by OAR 333-102-0125 will be approved if:

(1) The applicant satisfies the general requirement of OAR 333-102-0200; and

(2) The applicant satisfies the requirements of sections 32.57, 32.58, 32.59, and 32.102 of 10 CFR Part 32 and section 70.39 of 10 CFR Part 70 or their equivalent.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0275

Licensing the Manufacture and Distribution of Ice Detection Devices

An application for a specific license to manufacture and distribute ice detection devices to persons granted a general license by OAR 333-102-0135 will be approved if:

(1) The applicant satisfies the general requirements of OAR 333-102-0200;

(2) The criteria of sections 32.61, 32.62, 32.103, and 32.110 of 10 CFR Part 32 are met.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture , prepare, or transfer for commercial distribution radioactive drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as a drug manufacturer;

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a State Board of Pharmacy; or

(D) Operating as a nuclear pharmacy within a Federal medical institution.

(b) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radioactive drugs by medical use licensees; and

(c) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL"; the name of the radioactive drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radioactive drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radioactive drug to be transferred for commercial distribution. The label must include the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraph OAR 333-102-0285(1)(b)(C) or 333-102-0285(1)(b)(D) of this rule:

(a) May prepare radioactive drugs for medical use, as defined in OAR 333-116-0020(14), provided that the radioactive drug is prepared either by an authorized nuclear pharmacist, as specified in paragraph (2)(b) and (2)(c), or an individual under the supervision of an authorized nuclear pharmacist as specified in 10 CFR 35.25.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116- 0020,

(B) This individual meets the requirements specified in OAR 333-116-0910 and 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist, or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with paragraph 333-116-0285(2)(c).

(c) The actions authorized in paragraphs 333-116-0285(2)(a) and 333-116-0285(2)(b) are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020(23) as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an "authorized user" on a nuclear pharmacy license issued by the Agency pursuant to this Division.

(e) Shall provide to the Division a copy of each individual's certification by the Board of Pharmaceutical Specialties, the Commission or Agreement State license, or the permit issued by a licensee of broad scope, and a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, pursuant to paragraphs OAR 333-102-0285(2)(b)(A) and 333-102-0285(2)(b)(C), the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radioactive drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radioactive drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument; and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this section relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs.

NOTE: Although the Agency does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radiopharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Agency for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

[Publications: Publications referenced are available for review at Oregon Health Services Radiation Protection Services.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Radioactive Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to division 116 of this chapter for use as a calibration or reference

source or for the uses listed in OAR 333-116-0400 and 333-116-0420 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months,

(a) The applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Agency will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.665

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0293

Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0103 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of 10 percent of the limits specified in OAR 333-120-0100 of these rules; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Agency will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Agency may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to 333-102-0293(1) shall:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and

in the installation of the depleted uranium into the product or device.

(b) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in OAR 333-102-0103; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0103 and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in OAR 333-102-0103.

(d) Report to the Agency all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0103. Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Agency and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0103 during the reporting period, the report shall so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to OAR 333-102-0103.

(B) Such report shall identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the agency and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information shall be reported to the U.S. Nuclear Regulatory Commission, and

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency upon the request of that agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records shall be maintained until inspection by the Agency and shall show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of 333-102-0293(9).

(h) Licensees required to submit emergency plans by OAR 333-102-0190(9) shall follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605, ORS 453.625 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0300
Issuance of Specific Licenses

(1) Upon a determination that an application meets the requirements of the Act and these rules, the Agency will issue a specific license authorizing the proposed activity in such form and containing such conditions and limitations as it deems appropriate or necessary.

(2) The Agency may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material subject to this Division as it deems appropriate or necessary in order to:

(a) Minimize danger to public health and safety or property;

(b) Require such reports and the keeping of such records and to provide for such inspections of activities under the license as may be appropriate or necessary; and

(c) Prevent loss of theft of material subject to this Division.

(3) Whenever the Agency denies an application for a new license or a license renewal, the Agency will notify the applicant in writing stating the grounds for denial. Upon denial, the applicant may request a hearing pursuant to OAR 333-102-0345.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.655
Hist: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0305
Specific Terms and Conditions of License

(1) Each license issued pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Agency.

(2) No license issued or granted pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter nor any right shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the Agency pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material shall be in accordance with the provisions of division 118 of this chapter

(4) Each license issued pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b.-d., inclusive, of the Act, whether or not these provisions are expressly set forth in the license.

(5) The Agency may incorporate, in any license issued pursuant to pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Promote the common defense and security;

(b) Protect health or to minimize danger to life or property;

(c) Protect restricted data;

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(6) Licensees required to submit emergency plans by OAR 333-102-0200(10) shall follow the emergency plan approved by the Agency. The licensee may change the approved plan without Agency approval only if the changes do not decrease the effectiveness of the plan. The licensee shall furnish the change to the Agency and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Agency.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall test the generator eluates for molybdenum-99 breakthrough in accordance with OAR 333-116-0330. The licensee shall record the results of each test and retain each record for three years after the record is made.

(8)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee shall notify the Agency in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101 (14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101 (2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) the date of the filing of the petition.

(9) Sealed sources or detector cells containing licensed material shall not be opened or sources removed from source holders or detector cells by the licensee.

(10) No licensee shall acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(11) Any sealed source fabricated by a licensee shall be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(12) Each licensee shall conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories shall include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory shall include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date of the inventory. Records of the inventories required by OAR 333-102-0305(12) shall be kept until inspection by the agency.

(13) Each licensee shall transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this Chapter, "Transportation of Radioactive Material."

(14) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) shall perform an inspection of all devices at intervals not to exceed six months. Inspections shall include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections

required by OAR 333-102-0305(14) shall be kept until inspection by the agency.

(15) No licensee shall open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(16) No person shall repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(17) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources shall be performed only by persons specifically authorized by the Agency, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys shall be maintained for inspection by the Radiation Protection Agency.

(18) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation shall be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(19) Testing for Leakage or Contamination of Sealed Sources shall be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person shall not be put into use until tested.

(20) Detector cells shall be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells shall be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(21) Licensees who possess sealed sources used for testing at field sites shall possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area shall be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(22) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(23) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste with a physical half-life of less than 65 days, for decay-in-storage, before disposal in ordinary trash, provided that:

(a) Waste to be disposed of by storage-for-decay shall be held for decay a minimum of 10 half-lives; and

(b) Prior to disposal in ordinary trash, decayed waste shall be surveyed with an instrument that will properly record background radiation dose, to confirm that the radioactivity cannot be distinguished from background. All radiation labels shall be removed or obliterated; and

(c) Notwithstanding OAR 333-102-0305(22)(a) iodine-125 waste in microcurie amounts may be held for a minimum of five half-lives. Such waste must be surveyed with an appropriate instrument prior to disposal to confirm that waste is indistinguishable from background.

(24) Licensed materials in an unrestricted area and not in storage shall be tended under the constant surveillance and immediate control of the licensee.

(25) Except as otherwise specified in a radioactive materials license, the licensee shall have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(26) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2) of the Oregon Rules for the control of Radiation, the licensee is hereby authorized to label detector cells and cell baths, containing licensed radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(27) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this Chapter, two or more exposure devices at one jobsite, the licensee shall require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite shall not be less than n+1 where n=the number of cameras.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0310
Expiration and Termination of Licenses

(1) Except as provided in OAR 333-102-0315(2), each specific license shall expire at the end of the specified day in the month and year stated therein.

(2) Each licensee shall notify the Agency, in writing, and request termination of the license when the licensee decides to terminate all activities involving radioactive material authorized under the license. This notification and request for termination of the license must include the reports and information specified in subsection (4)(a) and (b) of this rule and a plan for completion of decommissioning if required by 10 CFR 30.36.

(3) No less than 30 days before the expiration date specified in the license, the licensee shall either:

(a) Submit an application for license renewal under OAR 333-102-0315; or

(b) Notify the Agency, in writing, if the licensee decides not to renew the license.

(4) If a licensee does not submit an application for license renewal under OAR 333-102-0315, the licensee shall, on or before the expiration date specified in the license:

(a) Terminate use of radioactive material;

(b) Remove radioactive contamination to the extent practicable;

(c) Properly dispose of radioactive material;

(d) Submit a completed copy of the required Agency form; and

(e) Submit a radiation survey report to confirm the absence of radioactive material or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate:

(A) Report levels of radiation in units of microrad per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity, including alpha, in units of transformations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

(B) Specify the instrumentation used and certify that each instrument was properly calibrated and tested.

(5) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. The Agency will notify the licensee, in writing, of the termination of the license.

(6) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual radioactive material present as contamination until the Agency notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of section (7) of this rule. In addition to the information submitted under subsections (4)(d) and (e) of this rule, the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(7) Each licensee who possesses residual radioactive material under section (6) of this rule, following the expiration date specified in the license shall:

(a) Limit actions involving radioactive material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(b) Continued to control entry to restricted areas until they are suitable for release for unrestricted use and the Agency notifies the licensee in writing that the license is terminated.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0315
Application for Renewal of Licenses

(1) Application for renewal of a specific license must be filed in accordance with OAR 333-102-0190.

(2) In any case in which a licensee, not less than 30 days prior to expiration of the existing license, has filed an application in proper form for renewal or for a new license authorizing the same activities, such existing license shall not expire until final action by the Agency.

(3) Unless otherwise specified, specific licenses shall expire after five (5) years.

(4) The Agency shall require reapplication when the license expires.

(5) The Agency may grant, upon written request from a licensee, extension of the license expiration date up to five (5) years from the original expiration date. Notwithstanding any licensee request, the Agency is not required, and may deny, any license extension, based on review of licensed activities.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0327
Specifically Licensed Items — Registration of Product Information

(1) Any manufacturer or initial distributor of a sealed source or device containing a sealed source whose product is intended for use under a specific license may submit a request to the Agency for evaluation of radiation safety information about its product and for its registration.

(2) The request for review must be made in duplicate and sent to the Manager, Radioactive Materials Licensing Program, Oregon Health Services, Radiation Protection Services, Suite 260, 800 N.E. Oregon Street, Portland, Oregon 97232.

(3) The request for review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and, for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

(4) The Agency normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the Agency formulates reasonable standards and criteria with the help of the manufacturer or distributor. The Agency shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property.

(5) After completion of the evaluation, the Agency, after review by the U.S. Nuclear Regulatory Commission, issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product.

(6) The person submitting the request for evaluation and registration of safety information about the product shall manufacture and distribute the product in accordance with:

(a) The statements and representations, including quality control program, contained in the request; and

(b) The provisions of the registration certificate.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.635
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0330
Transfer of Material

(1) No licensee shall transfer radioactive material except as authorized pursuant to this rule.

(2) Except as otherwise provided in the license and subject to the provisions of 333-102-0330(3) and 333-102-0330(4), any licensee may transfer radioactive material:

(a) To the Agency;

NOTE: A licensee may transfer radioactive material to the Agency only after receiving prior approval in writing from the Agency.

(b) To the U.S. Department of Energy;

(c) To any person exempt from the rules in this Division to the extent permitted under such exemption;

(d) To any person authorized to receive such material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Agency, the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State, or to any person otherwise authorized to receive such material by the Federal Government or any agency thereof, the Agency, an Agreement State or a Licensing State; or

(e) As otherwise authorized by the Agency in writing.

(3) Before transferring radioactive material to a specific licensee of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or to a general licensee who is required to register with the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred.

(4) Any of the following methods for the verification required by 333-102-0330(3) are acceptable:

(a) The transferor may possess and read a current copy of the transferee's specific license or registration certificate;

(b) The transferor may possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(c) For emergency shipments, the transferor may accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date; provided, that the oral certification is confirmed in writing within 10 days;

(d) The transferor may obtain other information compiled by a reporting service from official records of the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State regarding the identity of licensees and the scope and expiration dates of licenses and registration;

(e) When none of the methods of verification described in OAR 333-102-0330(4)(a) through 333-102-0330(4)(d) are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Agency, the U.S. Nuclear Regulatory Commission, the licensing agency of an Agreement State or a Licensing State that the transferee is licensed to receive the radioactive material.

(5) Shipment and transport of radioactive material shall be in accordance with the provisions of division 118 of this chapter.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625 & ORS 453.695
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0335
Modification, Revocation and Termination of Licenses

(1) The terms and conditions of each license issued pursuant to the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be subject to amendment, revision or modification or by reason of amendments to the Act, or by reason of rules, regulations and orders issued in accordance with the terms of the Act by the Agency.

(2) Any license may be revoked, suspended or modified, in whole or in part, for any material false statement in the application or any statement of fact required under section 182 of the Act, or because of conditions revealed by such application or statement of fact or any report, record or inspection or other means that would warrant the Agency to refuse to grant a license on an original application, or for violation of, or failure to observe any of the terms and conditions of the Act or of any rule, regulation or order of the US Nuclear Regulatory Commission or the Agency.

(3) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.

(4) The Agency may terminate a specific license upon request submitted by the licensee to the Agency in writing.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0340
Reciprocal Recognition of Licenses

(1) Subject to these rules, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or a licensing state, and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in any calendar year, provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee has notified the Agency using the Agency Reciprocity Application form at least three days prior to engaging in such activity and has paid the applicable registration fee pursuant to OAR 333-103-0030 . Such notification shall indicate the location, period and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Agency, obtain permission to proceed sooner. The Agency may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license granted by OAR 333-102-0340(1)(a);

(c) The out-of-state licensee complies with all applicable rules of the Agency and with all the terms and conditions of the licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the Agency or laws of the State of Oregon;

(d) The out-of-state licensee supplies such other information as the Agency may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in OAR 333-102-0340(1)(a) except by transfer to a person:

(A) Specifically licensed by the Agency or by the U.S. Nuclear Regulatory Commission to receive such material; or

(B) Exempt from the requirements for a license for such material under OAR 333-102-0010(2).

(2) Notwithstanding the provisions of OAR 333-102-0340(1), any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR 31.6 or equivalent regulations of an Agreement State, authorizing the holder of the license to manufacture, transfer, install or service a device described in OAR 333-102-0115(1) within the State of Oregon is hereby granted a general license to install, transfer, demonstrate or service such a device in this state provided that:

(a) Such person shall register the general license pursuant to OAR 333-101-0007;

(b) File a report with the Agency within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(c) Ensure that the device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an Agreement State;

(d) Ensure that any labels required to be affixed to the device under rules of the licensing authority also include the statement "Removal of this label is prohibited"; and

(e) The holder of the specific license shall furnish to each general licensee to whom such device is transferred, or on whose premises such a device is installed, a copy of the general license contained in OAR 333-102-0115 or in equivalent rules of the agency having jurisdiction over the manufacture and distribution of the device.

(3) The Agency may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an Agreement State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(4) The out-of-state licensee shall at all times during work at any work location within the state have available the pertinent licensing document, the applicable sections of the State of Oregon radiation regulations, a complete source inventory, pertinent U.S. Department of Transportation documentation, leak test records, instrument calibration records, personnel training records, and necessary documentation required by applicable special requirements of these regulations.

(5) While working in Oregon, the out-of-state licensee shall notify the Agency (in writing, indicating date and court) immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title II (bankruptcy) of the United States code by or against:

(a) The licensee;

(b) An entity (as that term is defined in II U.S.C 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in II U.S.C. 101(2)) of the license.

(6) The out-of-state licensee shall notify the Agency within 1 hour after arrival at the actual work location within the state and notification within 1 hour after any change of work location within the state.

(7) If multiple work crews or persons work concurrently at more than one work location under a general license granted pursuant to OAR 333-102-0340, each day worked at each location shall count toward the limit of 180 days in a calendar year.

(8) The Agency may withdraw, limit, or qualify its acceptance of any specific license or equivalent licensing document issued by the U. S. Nuclear Regulatory Commission, an Agreement State or a Licensing State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property.

(9) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to OAR 333-102-0340, based upon an acceptable licensing document, will receive acknowledgment from the Department. This acknowledgment shall be kept at the site of use.

(10) Each general licensee granted authorization to conduct activities within the state of Oregon pursuant to OAR 333-102-0340 based upon an acceptable licensing document is subject to the reciprocity fee and may be inspected by the Agency. The fee for the general license granting reciprocity shall:

(a) Be charged as provided by division 103 of this chapter; and

(b) Shall not be charged more often than once during each calendar year.

(11) Each general licensee operating within the state under reciprocity in areas of exclusive federal jurisdiction shall comply with the applicable provisions of 10 CFR 150.20.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-102-0350
Reporting Requirements

(1) Immediate report. Each licensee shall notify the Agency as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(2) Twenty-four hour report. Each licensee shall notify the Agency within 24 hours after the discovery of any of the following events involving licensed material:

(a) An unplanned contamination event that:

(A) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(B) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001-20.2401 of 10 CFR part 20 for the material; and

(C) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(b) An event in which equipment is disabled or fails to function as designed when:

(A) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(B) The equipment is required to be available and operable when it is disabled or fails to function; and

(C) No redundant equipment is available and operable to perform the required safety function.

(c) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(d) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(A) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of Secs. 20.1001 - 20.2401 of 10 CFR part 20 for the material; and

(B) The damage affects the integrity of the licensed material or its container.

(3) Preparation and submission of reports. Reports made by licensees in response to the requirements of this rule must be made as follows:

(a) Licensees shall make reports required by paragraphs OAR 333-102-350(1) and 333-102-350(2) by telephone to the Agency. To the extent that the information is available at the time of notification, the information provided in these reports must include:

NOTE: The 24-hour telephone number for the Agency is 503-731-4014.

(A) The caller's name and call back telephone number;

(B) A description of the event, including date and time;

(C) The exact location of the event;

(D) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(E) Any personnel radiation exposure data available.

(b) Written report. Each licensee who makes a report required by paragraph OAR 333-102-350(1) or 333-102-350(2) shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be Faxed or sent to the Agency with Attention to Radioactive Materials Manager, 800 NE Oregon Street, Portland, OR 97232. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(4) The provisions of this rule apply to licensees subject to the notification requirements in OAR 333-102-200(5).

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0355
Records

(1) Each person who receives radioactive material pursuant to a license issued in accordance with the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall keep records showing the receipt, transfer, and disposal of the radioactive material as follows:

(a) The licensee shall retain each record of receipt of radioactive material as long as the material is possessed and for three years following transfer or disposal of the material.

(b) The licensee who transferred the material shall retain each record of transfer for three years after each transfer unless a specific requirement in another Division of the rules in this Chapter dictates otherwise.

(c) The licensee who disposed of the material shall retain each record of disposal of radioactive material until the Agency terminates each license that authorizes disposal of the material.

(2) The licensee shall retain each record that is required by the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter or by license condition for the period specified by the appropriate rule or license condition. If a retention period is not otherwise specified by rule or license condition, the record must be retained until the Agency terminates each license that authorizes the activity that is subject to the record-keeping requirement.

(3)(a) Records that must be maintained pursuant to this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Agency rules. The record also may be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, or specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

(b) If there is a conflict between the Agency's rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter, license condition, or other written Agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this Division and divisions 105, 113, 115, 116, 117, and 121 of this chapter for such records shall apply unless the Agency, pursuant to OAR 333-102-0003, has granted a specific exemption from the record retention requirements specified in the rules in this Division or divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(4) Prior to license termination, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in an unsealed form, shall forward the following records to the Agency Office:

(a) Records of disposals of licensed material made prior to January 28, 1981; and

(b) Records required by OAR 333-120-0620(2)(d).

NOTE: Prior to EFSC rules burial of small quantities of licensed materials in soil was permitted without specific Agency authorization.

(5) If licensed activities are transferred or assigned in accordance with OAR 333-102-0305(2), each licensee authorized to possess radioactive material, with a half-life greater than 120 days, in an unsealed form, shall transfer the following records to the new licensee and the new licensee will be responsible for maintaining these records until the license is terminated:

(a) Records of disposal of licensed material made under OAR 333-120-0510 (including burials authorized before January 28, 1981, 333-120-0520, 333-120-0530, 333-120-0540; and

(b) Records required by 120-0620(2)(d).

(6) Prior to license termination, each licensee shall forward the records required by OAR 333-102-0306(7) to the Agency Office.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0360
Right to Cause the Withholding or Recall of Byproduct Material

The Agency may cause the withholding or recall of byproduct material from any licensee who is not equipped to observe or fails to observe such safety standards to protect health as may be established by the Agency, or who uses such materials in violation of law or regulation of the Agency, or in a manner other than as disclosed in the application therefor or approved by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-102-0365
Third Party Method

If the applicant consents, the Agency may enter into third party agreements for the applicant to engage and pay for the services of a third party contractor to prepare an environmental impact analysis required by OAR 333-102-0295 and/or to furnish an opinion of independent experts, satisfactory to the Agency, in respect to the completeness and adequacy of any information or data furnished by the applicant and on any aspect of the applicant's project or effects thereof.

(1) When the license applicant pays for a third party agreement, the monies paid for the consultant shall not be considered as specific license fees, pursuant to OAR 333-103-0010 of this chapter.

(2) In proceeding under the third party agreement, the Agency shall carry out the following practices:

(a) Such contractor shall be chosen solely by the Agency.

(b) The Agency shall manage the contract.

(c) The consultant shall be selected based on the consultant's ability and relevant and applicable work experience and an absence of conflict of interest. Third party contractors shall be required to execute a disclosure statement showing that they have no financial or other conflicting interest in the outcome of the project.

(d) The Agency shall specify the information to be developed and supervise the gathering, analysis and presentation of the information. The Agency shall have sole authority for approval and modification of the statement, analysis, and conclusions included in third party's report.

(e) The Agency has the single right of refusal of the final application. and the Agency is not obligated to approve the application or issue a license.

Stat. Auth.: ORS Ch. 453.605 - 453.807
Stats. Implemented: ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-103-0015
Annual Registration Fee for General Licenses and Devices

(1) Any general license granted by the Agency shall be validated annually by the general license registration fee listed in section (2) of this rule, unless otherwise exempted by subsection (2)(e) of this rule. General License registration fees as defined in OAR 333-103-0003(2)(b) shall:

(a) Validate each general licensed source of radiation due July 1 of each year for sources of radiation; and

(b) Validate each new application to register general license material pursuant to OAR 333-101-0007; and

(2) The general licenses appearing in the following fee schedule shall be registered on the appropriate Agency form and shall be validated annually by a general license registration fee:

(a) Each healing arts facility that uses radioactive material for In Vitro laboratory or clinical testing authorized by OAR 333-102-0130 — $100.

(b) Each radiation source in a generally license measuring, gauging or controlling device authorized pursuant to OAR 333-102-0115(1), except for radioactive material contained in devices designed and manufactured for the purpose of producing light or an ionized atmosphere pursuant to 333-102-0105 — $100.

(c) Each general licensee possessing or using depleted uranium for the purpose of providing a concentrated mass in a small volume of the product or device pursuant to OAR 333-102-0103 — $100.

(d) Each General Licensee possessing or using source material for research, development, educational, commercial or operational purposed pursuant to OAR 333-102-0101 — $150.

(e) General licenses not specifically identified in subsections (a), (b) and (c) of this section are exempt from the payment of an annual general license registration fee.

(f) Each out-of-state or NRC specific licensee granted a general license pursuant to OAR 333-102-0340 to conduct activities within the state of Oregon for a period not to exceed 180 days in a calendar year shall pay a registration validation fee as required by OAR 333-103-0030(6).

(3) Notwithstanding subsection (2)(f) of this rule, the general license fee shall be due and payable on or before July 1 of each year.

(4) A certificate of validation for the then current fiscal year shall be provided by the Agency. The certificate for the then current fiscal year shall be retained by the licensee and attached to the general license.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.757
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03

333-105-0001
Purpose

This Division prescribes requirements for the industrial use of sources of radiation and radiation safety requirements for persons using these sources of radiation in industrial radiography.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.665 & ORS 453.635
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-105-0003
Scope

The provisions and requirements of this Division are in addition to, and not in substitution for, other requirements of these rules. In particular, the general requirements of divisions 100, 101, 102, 111, 118, and 120 of this chapter apply to applicants, licensees, and registrants subject to this Division. Division 102 and 118 of these rules apply to licensing and transportation of radioactive material and division 101 of these rules applies to the registration of radiation machines. Except for sections that are applicable only to sealed radioactive sources, both radiation machines and sealed radioactive sources are covered by this Division. This rule does not apply to medical uses addressed in division 116.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.665 & ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0005
Definitions

As used in this Division, the following definitions apply:

(1) "Annual refresher safety training" means a review conducted or provided by the licensee or registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as a minimum, a review of radiation safety aspects of industrial radiography, any results of internal audits, Agency inspections, new procedures or equipment, new or revised regulations, and accidents or errors that have been observed. The review shall also provide opportunities for employees to ask safety questions.

(2) "ANSI" means the American National Standards Institute.

(3) "Associated equipment" means equipment that is used in conjunction with a radiographic exposure device to make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube and collimator when it is used as an exposure head.

(4) "Cabinet radiography" means industrial radiography conducted in an enclosure or cabinet so shielded that every location on the exterior meets the dose limits for individual members of the public as specified in OAR 333-120-0180;

(5) "Cabinet X-ray system" means an X-ray system with the X-ray tube installed in an enclosure hereinafter termed a cabinet, that is independent of existing architectural structures except the floor. The cabinet x-ray system is intended to contain at least that portion of a material being irradiated, provide radiation attenuation and exclude personnel from its interior during generation of radiation. This definition includes X-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad and bus terminals and in similar facilities. An X-ray tube used within a shielded part of a building, or X-ray equipment that may temporarily or occasionally incorporate portable shielding, is not considered a cabinet X-ray system.

(6) "Camera" see "Radiographic exposure device".

(7) "Certifiable cabinet x-ray system" means an existing uncertified x-ray system that has been modified to meet the certification requirements specified in 21 CFR 1020.40.

(8) "Certified cabinet X-ray system" means an X-ray system that has been certified in accordance with 21 CFR 1020.40.

(9) "Certifying entity" means an independent certifying organization meeting the requirements in Appendix A of division 105 or an Agreement State regulatory program meeting the requirements in Appendix A, Sections II and III.

(10) "Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size, shape, and direction of the radiation beam.

(11) "Control drive cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(12) "Control drive mechanism" means a device that enables the source assembly to be moved into and out of the exposure device.

(13) "Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(14) "Drive cable" see "Control cable".

(15) "Exposure head" means a device that locates the gamma radiography sealed source in the selected working position. An exposure head also is known as a source stop or end cap.

(16) "Field station" means a facility from which sources of radiation may be stored or used and from which equipment is dispatched.

(17) "Guide tube" (projection sheath) means a flexible or rigid tube, or "J" tube, for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(18) "Hands-on experience" means experience in all of those areas considered to be directly involved in the radiography process, and includes taking radiographs, calibration of survey instruments, operational and performance testing of survey instruments and devices, film development, posting of radiation areas, preparing radiographic sources for transport, set-up of radiography equipment, posting of records and radiation area surveillance, etc., as applicable. In addition the Radiation Safety Officer experience shall include source exchange and source retrieval. Excessive time spent in only one or two of these areas, such as film development or radiation area surveillance, should not be counted toward the 2000 hours of hands-on experience required for a radiation safety officer in 333-105-0520 or the hands-on experience for a radiographer as required by 333-105-0530.

(19) "Independent certifying organization" means an independent organization that meets all of the criteria of Appendix A of this part.

(20) "Industrial radiography" means a nondestructive examination of the structure of materials using ionizing radiation to make radiographic images.

(21) "Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.

(22) "Lixiscope" means a portable light-intensified imaging device using a sealed source.

(23) "Offshore platform radiography" means industrial radiography conducted from a platform over a body of water.

(24) "Permanent radiographic installation" means an enclosed shielded room, cell, or vault, not located at a temporary jobsite, in which radiography is performed.

(25) "Personal supervision" means supervision in which the radiographer is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the radiographer's assistant and in such proximity that immediate assistance can be given if required.

(26) "Pigtail" see "Source assembly".

(27) "Pill" see "Sealed source".

(28) "Practical examination" means a demonstration through application of the safety rules and principles in industrial radiography including use of all procedures and equipment to be used by radiographic personnel.

(29) "Projection sheath" see "Guide tube".

(30) "Projector" see "Radiographic exposure device".

(31) "Radiation safety officer for industrial radiography" means an individual with the responsibility for the overall radiation safety program on behalf of the licensee or registrant and who meets the requirements of 333-105-0520.

(32) "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of these rules and the conditions of the license or registration.

(33) "Radiographer certification" means written approval received from a certifying entity stating that an individual has satisfactorily met the radiation safety, testing, and experience criteria in 333-105-0530.

(34) "Radiographer's assistant" means any individual who, under the direct supervision of a radiographer, uses radiographic exposure devices, sources of radiation, related handling tools or radiation survey instruments in industrial radiography.

(35) "Radiographer instructor" means any radiographer who has been authorized by the Agency to provide on-the-job training to radiographer trainees in accordance with OAR 333-105-0530(3).

(36) "Radiographer trainee" means any individual who, under the direct supervision of a radiographer instructor, uses sources of radiation, related handling tools or radiation survey instruments during the course of his instruction.

(37) "Radiographic exposure device" (also called a camera or a projector) means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved or otherwise changed from a shielded to unshielded position for purposes of making a radiographic exposure.

(38) "Radiographic operations" means all activities performed with a radiographic exposure device, or with a radiation machine. Activities include using, transporting (except when being transported by common or contract carriers), storing at a temporary job site, performing surveys to confirm the adequacy of boundaries, setting up equipment, and any activity inside restricted area boundaries. Transporting a radiation machine is not considered a radiographic operation.

(39) "Radiographic personnel" means any radiographer, radiographer's assistant, radiographer instructor or radiographer trainee.

(40) "Radiography" see "Industrial radiography."

(41) "Residential location" means any area where structures in which people lodge or live are located and the grounds on which such structures are located including, but not limited to, houses, apartments, condominiums and garages.

(42) "S-tube" means a tube through which the radioactive source travels when inside a radiographic exposure device.

(43) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(44) "Shielded position" means the location within the radiographic exposure device, source changer, or storage container that, by manufacturer's design, is the proper location for storage of the sealed source.

(45) "Shielded room radiography using radiation machines" means industrial radiography using radiation machines, which is conducted in an enclosed room, the interior of which is not occupied during radiographic operations, which is so shielded that every location on the exterior meets conditions for an unrestricted area as specified in OAR 333-120-0180, and the only access to which is through openings that are interlocked so that the radiation machine will not operate unless all openings are securely closed.

(46) "Source assembly" means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(47) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices. They also may be used for transporting and storing sealed sources.

(48) "Storage area" means any location, facility or vehicle that is used to store and secure a radiographic exposure device, a radiation machine, or a storage container when it is not used for radiographic operations. Storage areas are locked or have a physical barrier to prevent accidental exposure, tampering with or unauthorized removal of the device, container, source, or machine.

(49) "Storage container" means a device in which sealed sources are secured or stored.

(50) "Temporary jobsite" means any location where radiographic operations are performed and where sources of radiation may be stored other than those location(s) of use authorized on the license or registration.

(51) "Transport container" means a package that is designed to provide radiation safety and security when sealed sources are transported and which meets all applicable requirements of the U.S. Department of Transportation.

(52) "Underwater radiography" means radiographic operations performed when the radiographic exposure device or radiation machine and/or related equipment are beneath the surface of the water.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-105-0050

Exemptions

(1) Uses of certified and certifiable cabinet x-ray systems are exempt from the requirements of this Division except for the following:

(a) For certified and certifiable cabinet x-ray systems, including those designed to allow admittance of individuals:

(A) No registrant shall permit any individual to operate a cabinet x-ray system until the individual has received a copy of and instruction in the operating procedures for the unit. Records that demonstrate compliance with this subparagraph shall be maintained for Agency inspection until disposal is authorized by the Agency.

(B) Tests for proper operation of interlocks must be conducted and recorded at intervals not to exceed six months. Records of these tests shall be maintained for Agency inspection until disposal is authorized by the Agency.

(C) The registrant shall perform an evaluation of the radiation dose limits to determine compliance with OAR 333-120-0180, 333-120-0190 and 21 CFR 1020.40, Cabinet X-Ray Systems (39 Federal Register 12986, April 10, 1974), at intervals not to exceed one year. Records of these evaluations shall be maintained for Agency inspection for two years after the evaluation.

(b) Certified cabinet X-ray systems shall be maintained in compliance with 21 CFR 1020.40, Cabinet X-Ray Systems (39 Federal Register 12986, April 10, 1974), and no modification shall be made to the system unless prior Agency approval has been granted.

(2) Industrial uses of lixiscopes are exempt from the requirements of this Division if the dose rate 18 inches from the source of radiation to any individual does not exceed 2 millirem per hour. Devices that exceed this limit shall meet the applicable requirements of this Division and the licensing or registration requirements of division 101 or division 102 of these rules, as applicable.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0075

Licensing and Registration Requirements for Industrial Radiography Operations

The Agency will approve an application for a specific license for the use of licensed material or a registration for use of radiation machines if the applicant meets the following requirements:

(1) The applicant satisfies the general requirements specified in OAR 333-101-0005 for radiation machine facilities or 333-102-0200 for radioactive material, as applicable, and any special requirements contained in this Division;

(2) The applicant submits an adequate program for training radiographers and radiographer's assistants that meets the requirements of 333-105-0530:

(a) After July 1, 2003, the applicant need not describe the initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(b) From December 1, 2002 to July 1, 2003, the applicant may affirm that all individuals acting as industrial radiographers will be certified in radiation safety by a certifying entity before commencing duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in 333-105-0530(7).

(3) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid;

(4) The applicant submits written operating and emergency procedures as described in 333-105-0540;

(5) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographer's assistant at intervals not to exceed 6 months as described in 333-105-0530(5);

(6) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility;

(7) The applicant submits the qualifications of the individual(s) designated as the radiation safety officer as described in 333-105-0520(1);

(8) If an applicant intends to perform leak testing of sealed sources or exposure devices containing depleted uranium (DU) shielding, the applicant must describe the procedures for performing the test. The description must include the:

(a) Methods of collecting the samples;

(b) Qualifications of the individual who analyzes the samples;

(c) Instruments to be used; and

(d) Methods of analyzing the samples.

(9) If the applicant intends to perform calibrations of survey instruments and alarming ratemeters, the applicant must describe methods to be used and the experience of the person(s) who will perform the calibrations. All calibrations must be performed according to the procedures described and at the intervals prescribed in 333-105-0450 and 333-105-0560(7)(d);

(10) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations;

(11) The applicant identifies the location(s) where all records required by this and other Divisions of these rules will be maintained;

(12) If a license application includes underwater radiography, a description of:

(a) Radiation safety procedures and radiographer responsibilities unique to the performance of underwater radiography;

(b) Radiographic equipment and radiation safety equipment unique to underwater radiography; and

(c) Methods for gas-tight encapsulation of equipment; and

(13) If an application includes offshore platform and/or lay-barge radiography, a description of:

(a) Transport procedures for radioactive material to be used in industrial radiographic operations;

(b) Storage facilities for radioactive material; and

(c) Methods for restricting access to radiation areas.

(14) A license or registration will be issued if 333-105-0075(1) through 333-105-0075(13), as applicable, are met.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0420
Performance Requirements for Industrial Radiography Equipment

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981);

(2) In addition to the requirements specified in 333-105-0420(1), the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources;

(a) The licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(A) Chemical symbol and mass number of the radionuclide in the device;

(B) Activity and the date on which this activity was last measured;

(C) Model or product code and serial number of the sealed source;

(D) Name of the manufacturer of the sealed source; and

(E) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B packages must meet the applicable transportation requirements of Division 118 of these rules.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless approved by the Agency or other approval body.

(3) In addition to the requirements specified in 333-105-0420(1) and 333-105-0420(2), the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers;

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(d) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words:

"DANGER --RADIOACTIVE."

The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during industrial radiography operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this section; and

(5) As an exception to 333-105-0420(1), equipment used in industrial radiographic operations need not comply with § 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can reasonably exert on the lever or crankshaft of the drive mechanism.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0430
Limits on External Radiation Levels From Storage Containers and Source Changers

The maximum exposure rate limits for storage containers and source changers are 2 millisieverts (200 mrem) per hour at any exterior surface, and 0.1 millisieverts (10 mrem) per hour at 1 meter from any exterior surface with the sealed source in the shielded position.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0440
Locking of Sources of Radiation, Storage Containers and Source Changers

(1) Each radiographic exposure device must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device and/or its

container must be kept locked (If a keyed lock, the key must be removed at all times) when not under the direct surveillance of a radiographer or a radiographer's assistant except at permanent radiographic installations as stated in 333-105-0580 In addition, during radiographic operations the sealed source assembly must be secured in the shielded position each time the source is returned to that position.

(2) Each sealed source storage container and source changer must have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers must be kept locked (If a keyed lock, the key must be removed at all times) when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

(3) The control panel of each radiation machine shall be equipped with a lock that will prevent the unauthorized use of an x-ray system or the accidental production of radiation. The radiation machine shall be kept locked and the key removed at all times except when under the direct visual surveillance of a radiographer or a radiographer's assistant.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0450
Radiation Survey Instruments

(1) The licensee or registrant shall keep sufficient calibrated and operable radiation survey instruments at each location where sources of radiation are present to make the radiation surveys required by this Division and by division 120 of these rules. Instrumentation required by this section must be capable of measuring a range from 0.02 millisieverts (2 mrem) per hour through 0.01 sievert (1 rem) per hour.

(2) The licensee or registrant shall have each radiation survey instrument required under 333-105-0450(1) calibrated:

(a) At energies appropriate for use and at intervals not to exceed 6 months or after instrument servicing, except for battery changes;

(b) For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 mrem) per hour; and

(c) So that an accuracy within plus or minus 20 percent of the true radiation dose rate can be demonstrated at each point checked.

(3) The licensee or registrant shall maintain records of the results of the instrument calibrations in accordance with 333-105-0620.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0460
Leak Testing and Replacement of Sealed Sources

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source must be performed by persons authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(2) The opening, repair, or modification of any sealed source must be performed by persons specifically authorized to do so by the Agency, the Nuclear Regulatory Commission, or another Agreement State.

(3) Testing and recordkeeping requirements.

(a) Each licensee who uses a sealed source shall have the source tested for leakage at intervals not to exceed 6 months. The leak testing of the source must be performed using a method approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State. The wipe sample should be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample must be analyzed for radioactive contamination. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis.

(b) The licensee shall maintain records of the leak tests in accordance with 333-105-0630.

(c) Unless a sealed source is accompanied by a certificate from the transferor that shows that it has been leak tested within 6 months before the transfer, it may not be used by the licensee until tested for leakage. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds 6 months.

(4) Any test conducted pursuant to 333-105-0460(2) and 333-105-0460(3) that reveals the presence of 185 Becquerel (0.005 microCurie) or more of removable radioactive material must be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall have it decontaminated and repaired or disposed of in accordance with Agency rules. A report must be filed with the Agency within 5 days of any test with results that exceed the threshold in this paragraph, describing the equipment involved, the test results, and the corrective action taken.

(5) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed 12 months. The analysis must be capable of detecting the presence of 185 becquerel (0.005 microCurie) of radioactive material on the test sample and must be performed by a person specifically authorized by the Agency, the Nuclear Regulatory Commission, or another Agreement State to perform the analysis. Should such testing reveal the presence of DU contamination, the exposure device must be removed from use until an evaluation of the wear of the S-tube has been made. Should the evaluation reveal that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while not in use and in storage. Before using or transferring such a device, however, the device must be tested for DU contamination, if the interval of storage exceeds 12 months. A record of the DU leak-test must be made in accordance with 333-105-0630.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0470
Quarterly Inventory

(1) Each licensee or registrant shall conduct a quarterly physical inventory to account for all sources of radiation, and for devices containing depleted uranium received and possessed under the license.

(2) The licensee or registrant shall maintain records of the quarterly inventory in accordance with 333-105-0640.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0480
Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) The licensee or registrant shall perform visual and operability checks on survey meters, radiation machines, radiographic exposure devices, transport and storage containers, associated equipment and source changers before each day's use, or work shift, to ensure that:

(a) The equipment is in good working condition;

(b) The sources are adequately shielded; and

(c) Required labeling is present.

(2) Survey instrument operability must be performed using check sources or other appropriate means.

(3) If equipment problems are found, the equipment must be removed from service until repaired.

(4) Each licensee or registrant shall have written procedures for and perform inspection and routine maintenance of radiation machines, radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed 3 months or before the first use thereafter to ensure the proper functioning of components important to safety. If equipment problems are found, the equipment must be removed from service until repaired.

(5) The licensee's inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(6) Records of equipment problems and of any maintenance performed under 333-105-0480 must be made in accordance with 333-105-0660.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0490
Permanent Radiographic Installations

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation must have either:

(a) An entrance control of the type described in OAR 333-120-0220 that causes the radiation level upon entry into the area to be reduced; or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal must be actuated by radiation whenever the source is exposed or the machine is energized. The audible signal must be actuated when an attempt is made to enter the installation while the source is exposed or the machine is energized.

(2) The alarm system must be tested for proper operation with a radiation source each day before the installation is used for radiographic operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry as designated in 333-105-0490(1)(a) must be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within 7 calendar days. The facility may continue to be used during this 7-day period, provided the licensee or registrant implements the continuous surveillance requirements of 333-105-0580 and uses an alarming rate-meter. Test records for entrance controls and audible and visual alarms must be maintained in accordance with 333-105-0670.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0500
Labeling, Storage, and Transportation

(1) The licensee may not use a source changer or a container to store radioactive material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION RADIOACTIVE MATERIAL
NOTIFY CIVIL AUTHORITIES
or "DANGER"

(2) The licensee may not transport radioactive material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with rules set out in division 118.

(3) Radiographic exposure devices, source changers, storage containers, and radiation machines, must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store radioactive material in a manner that will minimize danger from explosion or fire.

(4) The licensee shall lock and physically secure the transport package containing radioactive material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal.

(5) The licensee's or registrant's name and city or town where the main business office is located shall be prominently displayed with a durable, clearly visible label(s) on both sides of all vehicles used to transport radioactive material or radiation machines for temporary job site use.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0510
Conducting Industrial Radiographic Operations

(1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of 333-105-0530(3). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations must be conducted in a permanent radiographic installation unless otherwise specifically authorized by the Agency.

(3) Except when physically impossible, collimators shall be used in industrial radiographic operations that use radiographic exposure devices that allow the source to be moved out of the device.

(4) A licensee or registrant may conduct lay-barge, offshore platform, or underwater radiography only if procedures have been approved by the Agency, the Nuclear Regulatory Commission, or by another Agreement State.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0520
Radiation Safety Officer

The radiation safety officer shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's or registrant's program.

(1) The minimum qualifications, training, and experience for radiation safety officers for industrial radiography are as follows:

(a) Completion of the training and testing requirements of 333-105-0530(1);

(b) 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The Agency will consider alternatives when the radiation safety officer has appropriate training and experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the radiation safety officer include:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by division 120 of these rules and reviewing them regularly to ensure that they conform to Agency rules and to the license or registration conditions;

(b) Overseeing and approving the training program for radiographic personnel to ensure that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the rules, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated, if applicable, and used properly; that records are kept of the monitoring results; and that timely notifications are made as required by division 120 of these rules; and

(e) Ensuring that operations are conducted safely and for implementing corrective actions including terminating operations.

(4) Licensees and registrants will have 2 years from the effective date of this rule to meet the requirements of 333-105-0520(1) and 333-105-0520(2).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0530
Training

(1) The licensee or registrant may not permit any individual to act as a radiographer until the individual:

(a) Has received at least 40 hours of training in the subjects outlined in 333-105-0530(7), in addition to on the job training consisting of hands-on experience under the supervision of a radiographer and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in Appendix A of this Division. The on the job training shall include a minimum of 2 months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours); or

(b) The licensee or registrant may, until July 1, 2003 , allow an individual who has not met the requirements of 333-105-0530(1)(a), to act as a radiographer after the individual has received at least 40 hours of training in the subjects outlined in 333-105-0530(7) and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Agency, the Nuclear Regulatory Commission, or another Agreement State, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer. The on the job training shall include a minimum of 2 months (320 hours) of active Participation in the performance of industrial radiography utilizing radioactive material and/or 1 month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours).

(2) In addition, the licensee or registrant may not permit any individual to act as a radiographer until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this Division, and applicable sections of divisions 120, 111, and 118 of these rules, in the license or registration

under which the radiographer will perform industrial radiography, and the licensee's or registrant's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(2)(a) by successful completion of a written or oral examination;.

(c) Has received training in the use of the registrant's radiation machines, or the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(2)(c) by successful completion of a practical examination.

(3) The licensee or registrant may not permit any individual to act as a radiographer's assistant until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this Division, and applicable sections of divisions 120, 111, and 118 of these regulation, in the license or registration under which the radiographer's assistant will perform industrial radiography, and the licensee's or registrant's operating and emergency procedures;

(b) Has demonstrated an understanding of items in 333-105-0530(3)(a) by successful completion of a written or oral examination;

(c) Under the personal supervision of a radiographer, has received training in the use of the registrant's radiation machines, or the licensee's radiographic exposure devices and sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in 333-105-0530(3)(c) by successful completion of a practical examination.

(4) The licensee or registrant shall provide annual refresher safety training, as defined in 333-105-0005(1), for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

(5) Except as provided in 333-105-0530(5)(d), the radiation safety officer or designee shall conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the Agency's rules, license or registration requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed 6 months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than 6 months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of 333-105-0530(2)(c) and the radiographer's assistant must demonstrate knowledge of the training requirements of 333-105-0530(3)(c) by a practical examination before these individuals can next participate in a radiographic operation.

(c) The Agency may consider alternatives in those situations where the individual serves as both radiographer and radiation safety officer.

(d) In those operations where a single individual serves as both radiographer and radiation safety officer, and performs all radiography operations, an inspection program is not required.

(6) The licensee or registrant shall maintain records of the above training to include certification documents, written, oral and practical examinations, refresher safety training and inspections of job performance in accordance with 333-105-0680.

(7) The licensee or registrant shall include the following subjects required in 333-105-0530(1):

(a) Fundamentals of radiation safety including:

(A) Characteristics of gamma and x-radiation;

(B) Units of radiation dose and quantity of radioactivity;

(C) Hazards of exposure to radiation;

(D) Levels of radiation from sources of radiation; and

(E) Methods of controlling radiation dose (time, distance, and shielding);

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment;

(c) Equipment to be used including:

(A) Operation and control of radiographic exposure equipment, remote handling equipment, and storage containers, including pictures or models of source assemblies (pigtails);

(B) Operation and control of radiation machines;

(C) Storage, control, and disposal of sources of radiation; and

(D) Inspection and maintenance of equipment.

(d) The requirements of pertinent state and federal rules; and

(e) Case histories of accidents in radiography.

(8) Licensees and registrants will have one year from the effective date of this rule to comply with the additional training requirements specified in 333-105-0530(2)(a) and 333-105-0530(3)(a).

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0540

Operating and Emergency Procedures

(1) Operating and emergency procedures must include, as a minimum, instructions in the following:

(a) Appropriate handling and use of sources of radiation so that no person is likely to be exposed to radiation doses in excess of the limits established in division 120 of these rules;

(b) Methods and occasions for conducting radiation surveys;

(c) Methods for posting and controlling access to radiographic areas;

(d) Methods and occasions for locking and securing sources of radiation;

(e) Personnel monitoring and the use of personnel monitoring equipment;

(f) Transporting equipment to field locations, including packing of radiographic exposure devices and storage containers in the vehicles, placarding of vehicles when required, and control of the equipment during transportation as described in division 118 of these rules;

(g) The inspection, maintenance, and operability checks of radiographic exposure devices, radiation machines, survey instruments, alarming ratemeters, transport containers, and storage containers;

(h) Steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale or an alarming ratemeter alarms unexpectedly;

(i) The procedure(s) for identifying and reporting defects and noncompliance, as required by 333-105-0740;

(j) The procedure for notifying proper persons in the event of an accident or incident;

(k) Minimizing exposure of persons in the event of an accident or incident, including a source disconnect, a transport accident, or loss of a source of radiation;

(l) Source recovery procedure if licensee will perform source recoveries; and

(m) Maintenance of records.

(2) The licensee or registrant shall maintain copies of current operating and emergency procedures in accordance with 333-105-0690 and 333-105-0730.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0550

Supervision of Radiographer's Assistants

The radiographer's assistant shall be under the direct visual supervision of a radiographer when using radiographic exposure devices, associated equipment or sources of radiation, or when conducting radiation surveys required by 333-105-0570(2) to determine that the sealed source has returned to the shielded position or the radiation machine is off after an exposure. The personal supervision must include:

(1) The radiographer's physical presence at the site where the sources of radiation are being used;

(2) The availability of the radiographer to give immediate assistance if required; and

(3) The radiographer's direct observation of the assistant's performance of the operations referred to in this section.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0560

Personnel Monitoring

(1) The licensee or registrant may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a combination of direct reading dosimeter, an alarming ratemeter, and either a film badge or a TLD or other NAVLAP approved technologies. At permanent radiographic installations where other appropriate alarming or warn-

ing devices are in routine use, or during radiographic operations using radiation machines, the use of an alarming ratemeter is not required.

(a) Pocket dosimeters must have a range from zero to 2 millisieverts (200 mrem) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) Each film badge and TLD must be assigned to and worn by only one individual.

(c) Film badges and TLD's must be exchanged at periods not to exceed one month.

(d) After replacement, each film badge or TLD must be returned to the supplier for processing within 14 calendar days of the end of the monitoring period, or as soon as practicable. In circumstances that make it impossible to return each film badge or TLD in 14 calendar days, such circumstances must be documented and available for review by the Agency.

(2) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters, must be read and the exposures recorded at the beginning and end of each shift, and records must be maintained in accordance with 333-105-0700.

(3) Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation, and records must be maintained in accordance with 333-105-0700(1). Acceptable dosimeters must read within plus or minus 20 percent of the true radiation exposure.

(4) If an individual's pocket dosimeter is found to be off-scale, or the electronic personal dosimeter reads greater than 2 millisieverts (200 mrem), the individual's film badge or TLD must be sent for processing within 24 hours. In addition, the individual may not resume work associated with the use of sources of radiation until a determination of the individual's radiation exposure has been made. This determination must be made by the radiation safety officer or the radiation safety officer's designee. The results of this determination must be included in the records maintained in accordance with 333-105-0700.

(5) If a film badge or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge or TLD. The results of the calculated exposure and the time period for which the film badge or TLD was lost or damaged must be included in the records maintained in accordance with 333-105-0700.

(6) Reports received from the film badge or TLD processor must be retained in accordance with 333-105-0700.

(7) Each alarming ratemeter must:

(a) Be checked to ensure that the alarm functions properly before using at the start of each shift;

(b) Be set to give an alarm signal at a preset dose rate of 5 millisieverts (500 mrem per hour; with an accuracy of plus or minus 20 percent of the true radiation dose rate;

(c) Require special means to change the preset alarm function; and

(d) Be calibrated at periods not to exceed 12 months for correct response to radiation. The licensee shall maintain records of alarming ratemeter calibrations in accordance with 333-105-0700(2).

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0570
Radiation Surveys

The licensee or registrant shall:

(1) Conduct all surveys with a calibrated and operable radiation survey instrument that meets the requirements of 333-105-0450;

(2) Conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or the guide tube. The survey must determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment. Radiation machines shall be surveyed after each exposure to determine that the machine is off;

(3) Conduct a survey of the radiographic exposure device whenever the source is exchanged and whenever a radiographic exposure device is placed in a storage area as defined in 333-105-0005, to ensure that the sealed source is in its shielded position; and

(4) Maintain records in accordance with 333-105-0710.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0580
Surveillance

During each radiographic operation, the radiographer shall ensure continuous direct visual surveillance of the operation to protect against unauthorized entry into a radiation area or a high radiation area, as defined in division 100 of these rules, except at permanent radiographic installations where all entryways are locked and the requirements of 333-105-0490 are met.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0590
Posting

All areas in which industrial radiography is being performed must be conspicuously posted as required by OAR 333-120-0410. The exceptions listed in 333-120-0420 do not apply to industrial radiographic operations.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0600
Records for Industrial Radiography

Each licensee or registrant shall maintain a copy of its license or registration, documents incorporated by reference, and amendments to each of these items until superseded by new documents approved by the Agency, or until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0610
Records of Receipt and Transfer of Sources of Radiation

(1) Each licensee or registrant shall maintain records showing the receipts and transfers of sealed sources, devices using DU for shielding, and radiation machines, and retain each record for 3 years after it is made.

(2) These records must include the date, the name of the individual making the record, radionuclide, number of Becquerel (Curies) or mass (for DU), and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0620
Records of Radiation Survey Instruments

Each licensee or registrant shall maintain records of the calibrations of its radiation survey instruments that are required under 333-105-0450 and retain each record for 3 years after it is made.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0630
Records of Leak Testing of Sealed Sources and Devices Containing DU

Each licensee shall maintain records of leak test results for sealed sources and for devices containing DU. The results must be stated in units of Becquerel (microcuries). The licensee shall retain each record for 3 years after it is made or until the source in storage is removed.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0640
Records of Quarterly Inventory

(1) Each licensee or registrant shall maintain records of the quarterly inventory of sources of radiation, including devices containing depleted uranium as required by 333-105-0470, and retain each record for 3 years.

(2) The record must include the date of the inventory, name of the individual conducting the inventory, radionuclide, number of Becquerel (curies) or mass (for DU) in each device, location of sources of radiation and/or devices, and manufacturer, model, and serial number of each source of radiation and/or device, as appropriate.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0650
Utilization Logs

(1) Each licensee or registrant shall maintain utilization logs showing for each source of radiation the following information:

(a) A description, including the make, model, and serial number of the radiation machine or the radiographic exposure device, transport, or storage container in which the sealed source is located;

(b) The identity and signature of the radiographer to whom assigned;

(c) The location and dates of use, including the dates removed and returned to storage; and

(d) For permanent radiographic installations, the dates each radiation machine is energized.

(2) The licensee or registrant shall retain the logs required by 333-105-0650(1) for 3 years.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0660
Records of Inspection and Maintenance of Radiation Machines, Radiographic Exposure Devices, Transport and Storage Containers, Associated Equipment, Source Changers, and Survey Instruments

(1) Each licensee or registrant shall maintain records specified in 333-105-0480 of equipment problems found in daily checks and quarterly inspections of radiation machines, radiographic exposure devices, transport and storage containers, associated equipment, source changers, and survey instruments; and retain each record for 3 years after it is made.

(2) The record must include the date of check or inspection, name of inspector, equipment involved, any problems found, and what repair and/or maintenance, if any, was performed.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0670
Records of Alarm System and Entrance Control Checks at Permanent Radiographic Installations

Each licensee or registrant shall maintain records of alarm system and entrance control device tests required by 333-105-0490 and retain each record for 3 years after it is made.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0680
Records Of Training and Certification

Each licensee or registrant shall maintain the following records for 3 years after the individual terminates employment:

(1) Records of training of each radiographer and each radiographer's assistant. The record must include radiographer certification documents and verification of certification status, copies of written tests, dates of oral and practical examinations, the names of individuals conducting and receiving the oral and practical examinations, and a list of items tested and the results of the oral and practical examinations; and

(2) Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records must list the topics discussed during the refresher safety training, the dates the annual refresher safety training was conducted, and names of the instructors and attendees. For inspections of job performance, the records must also include a list showing the items checked and any non-compliance observed by the radiation safety officer or designee.

Stat. Auth.: ORS Ch. 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0690
Copies of Operating and Emergency Procedures

Each licensee or registrant shall maintain a copy of current operating and emergency procedures until the Agency terminates the license or registration. Superseded material must be retained for 3 years after the change is made.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0700
Records of Personnel Monitoring

Each licensee or registrant shall maintain the following exposure records specified in 333-105-0560:

(1) Direct reading dosimeter readings and yearly operability checks required by 333-105-0560(2) and 333-105-0560(3) for 3 years after the record is made;

(2) Records of alarming ratemeter calibrations for 3 years after the record is made;

(3) Reports received from the film badge or TLD processor until the Agency terminates the license or registration; and

(4) Records of estimates of exposures as a result of off-scale personal direct reading dosimeters, or lost or damaged film badges or TLD's, until the Agency terminates the license or registration.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0710
Records of Radiation Surveys

Each licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage as specified in 333-105-0570(3) Each record must be maintained for 3 years after it is made.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0720
Form of Records

Each record required by this Division must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0730
Location Of Documents and Records

(1) Each licensee or registrant shall maintain copies of records required by this Division and other applicable divisions of these rules at the location specified in 333-105-0410(11).

(2) Each licensee or registrant shall also maintain current copies of the following documents and records sufficient to demonstrate compliance at each applicable field station and each temporary job site:

(a) The license or registration authorizing the use of sources of radiation;

(b) A copy of divisions 100, 120, 105 & 111 of this chapter;

(c) Utilization logs for each source of radiation dispatched from that location as required by 333-105-0650.

(d) Records of equipment problems identified in daily checks of equipment as required by 333-105-0660(1);

(e) Records of alarm system and entrance control checks required by 333-105-0670, if applicable;

(f) Records of dosimeter readings as required by 333-105-0700;

(g) Operating and emergency procedures as required by 333-105-0690;

(h) Evidence of the latest calibration of the radiation survey instruments in use at the site, as required by 333-105-0620;

(i) Evidence of the latest calibrations of alarming ratemeters and operability checks of dosimeters as required by 333-105-0700;

(j) Survey records as required by 333-105-0710 and OAR 333-120-0620 as applicable, for the period of operation at the site;

(k) The shipping papers for the transportation of radioactive materials required by division 118 of these rules; and

(l) When operating under reciprocity pursuant to OAR 333-102-0340, a copy of the applicable State license or registration, or Nuclear Regulatory Commission license authorizing the use of sources of radiation.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0740
Notifications

(1) In addition to the reporting requirements specified in 10 CFR 30.50 and in division 120 of these rules, each licensee or registrant shall provide a written report to the Agency within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(a) Unintentional disconnection of the source assembly from the control cable;

(b) Inability to retract the source assembly to its fully shielded position and secure it in this position;

(c) Failure of any component, which is critical to safe operation of the device, to properly perform its intended function; or

(d) An indicator on a radiation machine fails to show that radiation is being produced, an exposure switch fails to terminate production of radiation when turned to the off position, or a safety interlock fails to terminate x-ray production.

(2) The licensee or registrant shall include the following information in each report submitted under 333-105-0740(1), and in each report of overexposure submitted under OAR 333-120-0720 which involves failure of safety components of radiography equipment:

(a) Description of the equipment problem;

(b) Cause of each incident, if known;

(c) Name of the manufacturer and model number of equipment involved in the incident;

(d) Place, date, and time of the incident;

(e) Actions taken to establish normal operations;

(f) Corrective actions taken or planned to prevent recurrence; and

(g) Names and qualifications of personnel involved in the incident.

(3) Any licensee or registrant conducting radiographic operations or storing sources of radiation at any location not listed on the license or registration for a period in excess of 180 days in a calendar year, shall notify the Agency prior to exceeding the 180 days.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0750
Reciprocity

(1) All reciprocal recognition of licenses and registrations by the Agency will be granted in accordance with OAR 333-102-0340.

(2) Reciprocal recognition by the Agency of an individual radiographer certification will be granted provided that:

(a) The individual holds a valid certification in the appropriate category issued by a certifying entity, as defined in 333-105-0005;

(b) The requirements and procedures of the certifying entity issuing the certification affords the same or comparable certification standards as those afforded by 333-105-0530(1);

(c) The applicant presents the certification to the Agency prior to entry into the state; and

(d) No escalated enforcement action is pending with the Nuclear Regulatory Commission or in any other state.

(3) Certified individuals who are granted reciprocity by the Agency shall maintain the certification upon which the reciprocal recognition was granted, or prior to the expiration of such certification, shall meet the requirements of 333-105-0530(1).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-105-0760
Specific Requirements for Radiographic Personnel Performing Industrial Radiography

(1) At a job site, the following shall be supplied by the licensee or registrant:

(a) At least one operable, calibrated survey instrument for each exposure device or radiation machine in use;

(b) A current whole body personnel monitor (TLD or film badge) for each person performing radiographic operations;

(c) An operable, calibrated pocket dosimeter with a range of zero to 200 milliroentgens for each person performing radiographic operations ;

(d) An operable, calibrated, alarming ratemeter for each person performing radiographic operations using a radiographic exposure device; and

(e) The appropriate barrier ropes and signs.

(2) Each radiographer at a job site shall have on their person a valid certification ID card issued by a certifying entity.

(3) Industrial radiographic operations shall not be performed if any of the items in 333-105-0760(1) and 333-105-0760(2) are not available at the job site or are inoperable.

(4) During an inspection, the Agency may terminate an operation if any of the items in 333-105-0760(1) and 333-105-0760(2) are not available or operable, or if the required number of radiographic personnel are not present. Operations shall not be resumed until all required conditions are met.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-106-0005
Definitions

As used in this Division, the following definitions apply:

(1) "Accessible Surface" means the external surface of the enclosure or housing provided by the manufacturer;

(2) "Added Filtration" means any filtration which is in addition to the inherent filtration.

(3) "Aluminum Equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

NOTE: The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Agency approved Instructor" means an individual who has been evaluated and approved by the Agency to teach Radiation Safety.

(5) "Agency approved training course" means a course of training that has been evaluated and approved by the Agency.

(6) "A.R.R.T. means the American Registry of Radiologic Technologists.

(7) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an X-ray system or subsystem. The term includes the owner of an X-ray system or his or her employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

(8) "Attenuation Block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(9) "Automatic Exposure Control (AEC)" means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation. (See also "Photo timer".)

(10) "Barrier" (see "Protective Barrier").

(11) "Beam Axis" means a line from the source through the centers of the X-ray fields.

(12) "Beam-Limiting Device" means a device which provides a means to restrict the dimensions of the X-ray field.

(13) "Beam Monitoring System" means a system designed to detect and measure the radiation present in the useful beam.

(14) "C-arm x-ray system" means an x-ray system in which the image receptor and x-ray tube housing are connected by a common mechanical support system in order to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

(15) "Cephalometric Device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(16) "Certified Components" means components of X-ray systems which are subject to the X-ray Equipment Performance Standard promulgated under Public Law 90-602, the Radiation Control Agency for Health and Safety Act of 1968.

(17) "Certified System" means any X-ray system which has one or more certified component(s).

(18) "Changeable Filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(19) "Coefficient of Variation (C)" means the ratio of the standard deviation to the mean value of a set of observations. It is estimated using the following equation: [Equation not included. See ED. NOTE.]

(20) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

(21) "Contact Therapy System" means an X-ray system used for therapy with the tube port placed in contact with or within five centimeters of the surface being treated.

(22) "Control Panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.

(23) "Cooling Curve" means the graphical relationship between heat units stored and cooling time.

(24) "Dead-Man Switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(25) "Detector" (see "Radiation detector").

(26) "Diagnostic x-ray imaging system" means an assemblage of components for the generation, emission, and reception of x-rays and the transformation, storage, and visual display of the resultant x-ray image.

(27) "Diagnostic Source Assembly" means the tube housing assembly with a beam-limiting device attached.

(28) "Diagnostic-Type Protective Tube Housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 milliroentgens in one hour when the tube is operated at its leakage technique factors.

(29) "Diagnostic X-Ray System" means an X-ray system designed for irradiation of any part of the human body or animal body for the purpose of diagnosis or visualization.

(30) "Direct Scattered Radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam (see "Scattered radiation").

(31) "Entrance Exposure Rate" means the exposure free in air per unit of time.

(32) "Field Emission Equipment" means equipment which uses a tube in which electron emission from the cathode is due solely to the action of an electric field.

(33) "Filter" means material placed in the useful beam to absorb preferentially selected radiations.

(34) "Fluoroscopic Benchmark" means a standard based upon the average cumulative fluoroscopic on-time normally found to be used for a specific fluoroscopic procedure at the site.

(34) "Fluoroscopic Imaging Assembly" means a subsystem in which X-ray photons produce a visible image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

(35) "Fluoroscopic x-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/or button of a fluoroscopic x-ray machine or physically positions patients or animals. Human holders, used solely for immobilization purposes (i.e. veterinarian human holders) are excluded from this rule.

(36) "Focal Spot" means the area projected on the anode of the tube by the electrons accelerated from the cathode and from which the useful beam originates.

(37) "General Purpose Radiographic X-Ray System" means any radiographic X-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(38) "Gonad Shield" means a protective barrier for the testes or ovaries.

(39) "Half-Value Layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(40) "Healing arts screening" means the testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by an Oregon licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment.

(41) "Heat Unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes and seconds, i.e., kVp x mA x second.

(42) "HVL" (see "Half-value layer").

(43) "Image Intensifier" means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

(44) "Image Receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident photons either into a visible image or into another form which can be made into a visible image by further transformations.

(45) "Inherent Filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

(46) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(47) "Irradiation" means the exposure of matter to ionizing radiation.

(48) "Kilovolt-Peak" (see "Peak tube potential").

(49) "kV" means kilovolts.

(50) "kVp" (see "Peak tube potential").

(51) "kWs" means kilowatt second. It is equivalent to 103 kV.mA.s, i.e., (A)kWs = (X) kV x (Y)mA x (Z)s x kWs = XYZ kWs 103kV x mA x 10^3

(52) "Lead Equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(53) "Leakage Radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(a) The useful beam; and

(b) Radiation produced when the exposure switch or timer is not activated.

(54) "Leakage Technique Factors" means the technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliampere seconds, or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For all other diagnostic or therapeutic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

(55) "Light Field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(56) "Line-Voltage Regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential. It is calculated using the following equation: [Equation not included. See ED. NOTE.]

(57) "mA" means milliampere.

(58) "mAs" means milliampere second.

(59) "Maximum Line Current" means the root-mean-square current in the supply line of an X-ray machine operating at its maximum rating.

(60) "Mobile Equipment" (see "Equipment").

(61) "Operator" means an individual who, under the supervision of a practitioner of the healing arts, uses ionizing radiation upon a human being for diagnostic or therapeutic purposes including the physical positioning of the patient, the determination of exposure parameters, and the handling of ionizing radiation equipment.

(62) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(63) "Peak Tube Potential" means the maximum value of the potential difference across the X-ray tube during an exposure.

(64) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

(65) "Photo timer" means a method for controlling radiation exposures to image receptors by measuring the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is a part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").

(66) "PID" (see "Position indicating device").

(67) "Portable Equipment" (see "X-Ray Equipment").

(68) "Position Indicating Device" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(69) "Primary Dose Monitoring System" means a system which will monitor useful beam during irradiation and which will terminate irradiation when a preselected number of dose monitor units have been acquired.

(70) "Primary Protective Barrier" (see "Protective barrier").

(71) "Protective Apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

(72) "Protected Area" means an area shielded with primary or secondary protective barriers or an area removed from the radiation source such that the exposure rate within the area due to normal operating procedures and workload does not exceed any of the following limits:

(a) Two milliroentgens in any one hour; or

(b) One hundred milliroentgens in any one year.

(c) See OAR 333-120-0180 for additional information.

(73) "Protective Barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure;

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(74) "Protective Glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(75) "Qualified Expert" means an individual who has demonstrated to the satisfaction of the Agency that such individual possesses the knowledge, training and experience to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs.

(76) "Quality Control Program" means a program directed at film processing and radiographic image quality whereby periodic monitoring of film processing is performed. Test films are compared against a control film, either visually or by use of a densitometer, to determine if density or contrast have changed. Steps can then be taken to investigate such change and correct the problem. The X-ray machine itself can also be involved in the quality control program, as can other components of the imaging chain.

(77) "Radiation Detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

(78) "Radiation Therapy Simulation System" means a radiographic or fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(79) "Radiograph" means an image receptor on which the image is created directly or indirectly by a pattern and results in a permanent record.

(80) "Radiographic Imaging System" means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(81) "Radiological Physicist" means an individual who:

(a) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or

(b) Has a bachelor's degree in one of the physical sciences or engineering and three years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot checks of a medical accelerator or a sealed source teletherapy unit; or

(c) Has a Master's or a Doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one year's full-time training in therapeutic radiological physics; and has had one year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot checks of a medical accelerator or a sealed source teletherapy unit.

(82) "Rating" means the operating limits as specified by the component manufacturer.

(83) "Recording" means producing a permanent form of an image resulting from X-ray photons.

(84) "Registrant", as used in this Division, means any person who owns or possesses and administratively controls an X-ray system which is used to deliberately expose humans or animals to the useful beam of the system and is required by the provisions contained in Divisions 100 and 101 of this chapter to register with the Agency.

(85) "Response Time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero, sufficient to provide a steady state midscale reading.

(86) "Scattered Radiation" means radiation that, during passage through matter, has been deviated in direction (see "Direct Scattered Radiation").

(87) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(88) "Secondary Dose Monitoring System" means a system which will terminate irradiation in the event of failure of the primary system.

(89) "Secondary Protective Barrier" (see "Protective barrier").

(90) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(91) "SID" (see "Source-image receptor distance").

(92) "Source" means the focal spot of the X-ray tube.

(93) "Source-Image Receptor Distance" means the distance from the source to the center of the input surface of the image receptor.

(94) "Spot Check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(95) "Spot Film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(96) "Spot-Film Device" means a device intended to transport and/or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(97) "SSD" means the distance between the source and the skin of the patient.

(98) "Stationary Equipment" (see "X-Ray Equipment").

(99) "Stray Radiation" means the sum of leakage and scattered radiation.

(100) "Technique Factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses;

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(101) "Termination of Irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(102) "Traceable to a National Standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

(103) "Tube" means an X-ray tube, unless otherwise specified.

(104) "Tube Housing Assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when such are contained within the tube housing.

(105) "Tube Rating Chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(106) "Unprotected Area" means any area in which the exposure rate, due to the use of the radiation machine under normal operating procedures and workload, exceeds any of the following limits:

(a) Two milliroentgens in any one hour; or

(b) One hundred milliroentgens in any seven consecutive days; or

(c) Five hundred milliroentgens in any one year.

(107) "Useful Beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

(108) "Variable-Aperture Beam-Limiting Device" means a beam-limiting device which has capacity for stepless adjustment of the X-ray field size at a given SID.

(109) "Visible Area" means that portion of the input surface of the image receptor over which the incident X-ray photons are producing a visible image.

(110) "Wedge Filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

(111) "X-Ray Control" means a device which controls input power to the X-ray high-voltage generator and/or the X-ray tube. It includes equipment such as exposure switches (control), timers, photo timers, automatic brightness stabilizers and similar devices, which control the technique factors of an X-ray exposure.

(112) "X-Ray Equipment" means an X-ray system, subsystem, or component thereof. Types of equipment are as follows:

(a) "Mobile equipment" means X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled;

(b) "Portable equipment" means X-ray equipment designed to be hand-carried;

(c) "Stationary equipment" means X-ray equipment which is installed in a fixed location;

(d) "Transportable" means X-ray equipment installed in a vehicle or trailer.

(113) "X-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button of an x-ray machine, or physically positions patients or animals for an x-ray.

(114) "X-Ray Field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(115) "X-Ray High-Voltage Generator" means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

(116) "X-Ray System" means an assemblage of components for the controlled production of X-rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(117) "X-Ray Subsystem" means any combination of two or more components of an X-ray system for which there are requirements specified in this Division.

(118) "X-Ray Tube" means any electron tube which is designed to be used primarily for the production of X-rays.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0035

Deliberate Exposures Restricted

Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the x-ray/s is determined, and has been authorized by a physician licensed to practice the healing arts in Oregon. Any useful diagnostic information obtained from each exposure shall be reviewed by a practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(2) Exposure of an individual for the purpose of healing arts screening:

(a) Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the Agency;

(b) When requesting such approval, that person shall submit the following information. If any information submitted to the Agency becomes invalid or outdated, the Agency shall be immediately notified:

(A) Name and address of the applicant and, where applicable, the names and addresses of agents within this state;

(B) Diseases or conditions for which the X-ray examinations are to be used in diagnoses;

(C) A detailed description of the X-ray examinations proposed in the screening program;

(D) Description of the population to be examined in the screening program, i.e., age, sex, physical conditions, and other appropriate information;

(E) An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the X-ray examinations;

(F) An evaluation by a qualified expert of the X-ray system(s) to be used in the screening program. The evaluation by the qualified expert shall show that such system(s) do satisfy all requirements of these rules;

(G) A description of the diagnostic film quality control program;

(H) A copy of the technique chart for the X-ray examination procedures to be used;

(I) The qualifications of each individual who will be operating the X-ray system(s);

(J) The qualifications of the individual who will be supervising the operators of the X-ray system(s). The extent of supervision and the method of work performance evaluation shall be specified;

(K) The name and address of the individual who will interpret the radiograph(s);

(L) A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated;

(M) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the X-ray examinations.

(3) Mammography screening shall be exempt from the requirements of section (2) of this rule if the following conditions are met:

(a) The requirements set forth in OAR 333-106-0699 are satisfied.

(b) All other applicable rules are met.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0045

Use of Best Procedures and Equipment

Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized. This is interpreted to include, but not limited to:

(1) The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations.

(2) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality, see Tables 1, 2 and 3. [Tables not included. See ED. NOTE.]

(3) Portable or mobile X-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary X-ray installation.

(4) X-ray systems subject to OAR 333-106-0301(1) shall not be utilized in procedures where the source to patient distance is less than 30 centimeters.

(5) Cardboard cassettes without screens shall not be used (dental intraoral excluded).

(6) Fluoroscopy:

(a) Use shall be restricted to those properly trained, and deemed competent in the safe use of fluoroscopy by a hospital radiation safety committee, radiologist or roentgenologist:

(A) Physician here means a MD, DO, DC, DPM or DVM only;

(B) Technologist here means A.R.R.T. — Registered only:

(i) The use of fluoroscopy by technologists shall be performed under the direction of a radiologist or roentgenologist and is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes;

(ii) Allowing technologists to assist in the use of fluoroscopy is not to be interpreted as giving the technologist the authority to do fluoroscopic studies on patients on their own accord.

(c) Proper training to meet the requirements of subsection (a) of this section shall include but not be limited to the following:

(i) Principles and operation of the fluoroscopic X-ray machine;

(ii) Biological effects of X-ray;

(iii) Radiation units;

(iv) Typical fluoroscopic outputs;

(v) High level control options;

(vi) Dose reduction techniques for fluoroscopy;

(vii) Protective devices;

(viii) Radiation monitoring;

(ix) Applicable radiation rules and regulations.

(D) Physicians or technologists using fluoroscopy prior to the effective date of these rules will be considered to have met the requirements of paragraph (6)(a)(C) of this rule if they have a written statement attesting that they have been evaluated and deemed competent in the safe use of fluoroscopy. Such evaluation and attestation must include the input of a radiologist or roentgenologist. In addition such attestation could be used as the basis of establishing proper training and competency in the safe use of fluoroscopy by other registrants that the individual may be associated with.

(b) All images formed by the use of stationary fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist or other qualified specialist;

(c) Mobile fluoroscopy shall meet the requirements of subsection (6)(a) and (b) of this rule;

(d) Written procedures for technologists performing fluoroscopy shall be available and include:

(A) A description of the examinations that the technologist is allowed to perform;

(B) A description of the qualifications to be met by a technologist who is performing fluoroscopy;

(C) A list of all technologists who are qualified and who are performing fluoroscopy.

(e) At no time will any student be allowed to perform fluoroscopy unless directly supervised by a radiologist or qualified technologist;

(f) Overhead fluoroscopy is not to be routinely used as a positioning tool for radiographic exams.

(7) Use of techniques designed to compensate for anatomical thickness variations after the primary beam has exited the patient is specifically prohibited. This includes "split screen" imaging techniques whereby multiple speed intensifying screens are placed in the same cassette, or any techniques which rely on attenuation of secondary (remnant) radiation for compensatory purposes. Lead lined grids, which are designed to reduce scattered radiation are excluded from this provision.

(8) Filter slot covers shall be provided when necessary.

(9) All patients' radiographs, or copies shall be made available for review by any practitioner of the healing arts upon request of the patient.

(10) Protective equipment including aprons, gloves and shields shall be checked annually for defects, such as holes, cracks and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Agency. If such defect is found, equipment shall be replaced or removed from service until repaired. Fluoroscopy shall only be used for this purpose if a visual and manual check indicated a potential problem.

(11) Facilities shall determine or cause to be measured the typical patient exposure for their most common radiographic examinations. The exposures shall be recorded as milliroentgens measured in free air at the point of skin entrance for an average patient. These values must then be compared to existing guidelines, and if such values are significantly higher than such guidelines, action must be taken to reduce the values while at the same time maintaining or improving diagnostic image quality. In addition, typical patient exposure values shall be posted or made readily available to administrators, X-ray operators, patients and practitioners.

(12) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The record must indicate the patients name, the type of examination, the date of the examination, the fluoroscopists name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on time for each fluoroscopic examination and:

(a) DHS Response: Change wording of OAR 333-106-0045(12)(a) as follows: "Effective twelve (12) months after the effective date of this rule, establish cumulative fluoroscopic on-time benchmarks for each at least two (if applicable) of the most common types of fluoroscopic examinations performed at their site in the following categories:

(A) Routine procedures performed on adults;

(B) Routine procedures performed on children;

(C) Orthopedic procedures performed in surgery;

(D) Urologic procedures performed in surgery;

(E) Angiographic procedures performed;

(F) Interventional cardiac studies;

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic on-time benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action, when the established benchmarks are consistently exceeded The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmark/s established by the facility for a particular procedure on three or more occasions during the study period. Documentation of the RSC review, as well as any corrective action/s taken, must be available for Agency review. Corrective action should, at a minimum, include;

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching, training, etc. in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

(13) Dental X-ray machines designed and manufactured to be used for dental purposes shall be restricted to dental use only.

(14) An X-ray quality control program shall be administered when appropriate.

(15) The number of radiographs taken for any radiographic examination should be the minimum number needed to adequately diagnose the problem.

(16) All X-ray equipment must be capable of functioning at the manufacturer's intended specifications.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0055

X-ray Operator Training

(1) The registrant shall assure that individuals who will be operating the X-ray equipment shall have adequate training in radiation safety. Adequate training in radiation safety means a minimum of forty (40) hours of didactic instruction for medical X-ray equipment operators, thirty (30) hours for dental X-ray equipment operators, and twenty (20) hours for veterinary X-ray equipment operators from an Agency approved training course covering the following subjects:

(a) Nature of X-rays;

(b) Interaction of X-rays with matter;

(c) Radiation units;

(d) Principles of the X-ray machine;

(e) Biological effects of X-ray;

(f) Principles of radiation protection;

(g) Low dose techniques;

(h) Applicable radiation regulations;

(i) Darkroom and film processing;

(j) Film critique.

(2) In addition to the above;

(a) Medical X-ray equipment operators using diagnostic radiographic equipment on human patients, and who are not responsible to the Oregon Board of Radiologic Technology. Must have 100 hours or more of instruction in radiologic technology including but not limited to anatomy and physiology, patient positioning, exposure and technique all of which must be appropriate to the types of X-ray examination that the individual will be involved with; and

(b) Have 200 hours or more of X-ray laboratory instruction and practice in the actual use of an energized X-ray unit, setting techniques and practicing positioning of the appropriate diagnostic radiographic procedures that they intend to administer; and

(c) Must have completed the required radiation use and safety hours and a minimum of 50 hours in X-ray laboratory before X-raying a human patient; and

(d) The training required in OAR 333-106-0055(1) and (2) must be taught by an Agency approved Instructor. Approval will be based the following criteria;

(A) Medical: Currently licensed as a Radiologic Technologist and approved as an education provider by the Oregon Board of Radiologic Technology.

(B) Dental:

(i) Passed the Dental Assisting National Board (DANB) written radiation health and safety examination; and

(ii) Currently licensed, by the Oregon Board of Dentistry as a dentist; or

(iii) Dental hygienist; or

(iv) Is a dental assistant certified in Radiologic proficiency and has a minimum of two years of experience in taking dental radiographs.

(C) Veterinarian:

(i) Currently credentialed with the Oregon Veterinary Medical Examining Board; or

(ii) Currently licensed as a Radiologic Technologist by the Oregon Board of Radiologic Technology; and

(iii) Have training specific to veterinarian radiography; And

(iv) Have a minimum of two years of experience in taking veterinary radiographs.

(D) On a case by case basis, if an evaluation by the Agency reveals the individual has alternative qualifications that are substantially equivalent to the qualifications listed in sections (2)(d)(A), (B), or (C) of this rule Alternative Radiation Safety Instructor Qualifications-(D) "The radiation safety training specified in OAR 333-106-0055(1) could also be provided by a person qualified under Agency rules as a Hospital Radiology Inspector, Qualified expert; or

(E) On a case by case basis, by a person whose qualifications as an instructor in radiation safety, are deemed by the Agency to be substantially equivalent to those listed in sections (2)(d)(A), (B), or (C) of this rule; or

(3) In addition to the requirements in sections (1),(2)(d)(B) of this rule, dental X-ray equipment operators must also satisfy any requirements established by the Oregon Board of Dentistry;

(4) The operator shall be able to demonstrate competency in the safe use of the X-ray equipment and associated X-ray procedures.

(5) Any operator is deemed to have adequate training to meet the requirements of section (1) of this rule if they meet any of the following:

(a) Hold a current license from the Oregon Board of Radiologic Technology;

(b) Hold a current limited permit from the Oregon Board of Radiologic Technology;

(c) Are a student in a two-year approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the supervision of a radiologist who is currently licensed with the Oregon Medical Examiners Board or a radiologic technologist who is currently registered with the American Registry of Radiologic Technologists and licensed with the Oregon Board of Radiologic Technology;

(d) Are a student in an Oregon Board of Radiologic Technology approved limited permit program under a Radiologic Technologist who is currently registered with the American Registry of Radiologic Technologists and licensed by the Oregon Board of Radiologic Technology; or

(e) Medical X-ray equipment operators not responsible to the Oregon Board of Radiologic Technology, who have met the training requirements listed in section (1) of this rule prior to September 1995, will be considered to have met the requirements of section (2) of these rules.

(f) Reciprocity. X-ray equipment operators who have received their radiation safety training outside of Oregon will be considered to have met the training requirements listed in section (1) or (2) as applicable of this rule, if the Agency's evaluation of their training or training and experience, reveals that they substantially meet the intent of section (1) or (2) of this rule.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0101
Diagnostic X-ray Systems

Additional Requirements. In addition to other requirements of this Division, all diagnostic X-ray systems shall meet the following requirements:

(1) Warning Label. The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "WARNING: This X-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed".

(2) The state will attach an identification number to each X-ray control panel:

(a) Identification numbers shall not be removed without written permission of the Agency;

(b) Identification numbers shall not be defaced.

(3) Mobile and portable X-ray systems shall meet the requirements of a stationary system when used for greater than seven consecutive days in the same location.

(4) Battery Charge Indicator. On battery-powered X-ray generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

(5) Leakage Radiation from the Diagnostic Source Assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one meter in any direction from the source shall not exceed 100 milliroentgens (25.8 C/kg) in one hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(6) Radiation from Components Other Than the Diagnostic Source Assembly. The radiation emitted by a component other than the diagnostic source assembly shall not exceed two milliroentgens (0.516 C/kg) in one hour at five centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(7) Beam Quality:

(a) Half-Value Layer:

(A) The half-value layer of the useful beam for a given X-ray tube potential shall not be less than the values shown in Table 4. If it is necessary to determine such half-value layer at an X-ray tube potential which is not listed in Table 4 , linear interpolation or extrapolation may be made; [Tables not included. See ED. NOTE.]

(B) In addition to the requirements of section (5) of this rule, all intraoral dental radiographic systems manufactured on and after December 1, 1980, shall have a minimum half-value layer not less than 1.5 millimeters aluminum equivalent filtration permanently installed in the useful beam;

(C) Beryllium window tubes shall have a minimum of 0.5 millimeter aluminum equivalent filtration permanently installed in the useful beam;

(D) For capacitor energy storage equipment, compliance with the requirements of section (5) of this rule shall be determined with the maximum quantity of charge per exposure;

(E) The required minimal aluminum equivalent filtration shall include the filtration contributed by all materials which are always present between the source and the patient.

(b) Filtration Controls. For X-ray systems which have variable kVp and variable filtration for the useful beam, a device shall link the kVp selector with the filter(s) and shall prevent an exposure unless the minimum amount of filtration required by subsection (5)(a) of this rule is in the useful beam for the given kVp which has been selected.

(8) Multiple Tubes. Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the X-ray control panel and at or near the tube housing assembly which has been selected.

(9) Mechanical Support of Tube Head. The tube housing assembly supports shall be adjusted such that the tube housing assembly will remain stable during an exposure unless the tube housing movement is a designed function of the X-ray system.

(10) Technique Indicators:

(a) The technique factors to be used during an exposure shall be indicated before the exposure begins. If automatic exposure controls are used, the technique factors which are set prior to the exposure shall be indicated;

(b) The requirement of subsection (10)(a) of this rule may be met by permanent marking on equipment having fixed technique factors.

(11) There shall be provided for each X-ray machine a means for determining the proper S.I.D.

(12) X-ray film developing requirements. Compliance with this section is required of all healing arts registrants and is designed to ensure that patient and operator exposure is minimized and to produce optimum image quality and diagnostic information:

(a) Manual processing of films:

(A) The following relationship between temperature of the development and development time must be used standard chemistry only) or manufacturer's recommendations: [Table not included. See ED. NOTE.]

(B) Processing of film. All films shall be processed in such a fashion as to achieve adequate sensitometric performance. This criterion shall be adjudged to have been met if:

(i) Film manufacturer's published recommendations for time and temperature are followed; or

(ii) Each film is developed in accordance with the time-temperature chart (see subsection (a) of this section).

(C) Chemical-film processing control:

(i) Chemicals shall be mixed in accordance with the chemical manufacturer's recommendations;

(ii) Developer replenisher shall be periodically added to the developer tank based on the recommendations of the chemical or film manufacturer. Solution may be removed from the tank to permit the addition of an adequate volume of replenisher.

(D) All processing chemicals shall be completely replaced at least every two months or as indicated by the manufacturer;

(E) Devices shall be available which will:

(i) Give the actual temperature of the developer; and

(ii) Give an audible or visible signal indicating the termination of a preset development time (in minutes or seconds).

(b) Automatic film processing. Films shall be processed in such a manner that the degree of film development is the same as would be achieved by proper adherence to subsection (a) of this section (manual processing);

(c) Darkrooms. Darkrooms shall be constructed so that film being processed, handled, or stored will be exposed only to light which has passed through an appropriate safelight filter;

(d) Safelights shall be properly mounted to eliminate film fogging;

(e) Safelights shall be properly matched to the type of film being used;

(f) Rapid film processing. Special chemicals have been designed for use in Endodontics. These chemicals have special development requirements and do not permit as large of a margin of error in darkroom technique as do standard developing chemicals. Failure to precisely follow manufacturer's recommendations can easily lead to overexposure and underdevelopment. Darkroom procedures shall include:

(A) The manufacturer's time temperature development is crucial and shall be followed exactly;

(B) Caution: A timer capable of accurately measuring the short development times required shall be used;

(C) If rapid chemical processing is used for general radiography all applicable requirements of section (12) of this rule shall be followed.

(g) The department shall make such tests as may be necessary to determine compliance with this section.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0105

Information and Maintenance Record and Associated Information

(1) The registrant shall maintain the following information for each x-ray and automatic film processing system for inspection by the Agency:

(a) Model, serial numbers and manufacturer's user manuals for all x-ray systems and automatic film processors;

(b) Tube rating charts and cooling curves;

(c) Records of surveys, calibrations maintenance, and modification performed on the x-ray system(s) with names of persons who perform such services;

(d) A scale drawing of the room in which a stationary x-ray system is located with such drawing indicating the current use of areas adjacent to the room and an estimate of the extent of occupancy by individuals in such areas. In addition, the drawing shall include:

(A) The result of a survey for radiation levels present at the operator's position and at pertinent points outside the room at specified test conditions; or

(B) The type and thickness of materials, or lead equivalency, of each protective barrier.

(e) A copy of all correspondence with this Agency regarding that x-ray system;

(f) Provisions in section (1) of this rule shall pertain to X-ray systems placed in service after the effective date of these rules.

(2) X-ray Log. Each facility shall maintain an x-ray log containing the patient's name, the type of examinations, and the dates the examinations were performed and the name of the x-ray operator. The following facilities are exempt from this requirements:

(a) Dental facilities that maintain patient records showing the type and date of the examination and the operator's name;

(b) Industrial facilities doing industrial X-ray only;

(c) Veterinary facilities;

(d) Hospitals or clinics who employ only fully licensed X-ray operators;

(e) Doctors' offices or clinics with only one X-ray operator, or one X-ray exam;

(f) Academic, when not X-raying humans.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0210

Entrance Exposure Rates

(1) Fluoroscopic equipment manufactured before May 19, 1995 that is provided with Automatic Exposure Rate Control (AERC) shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute, at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or

(b) When optional high-level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(2) Fluoroscopic equipment that is not provided with AERC shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or

(b) When optional high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(3) Equipment with both an AERC mode and a manual mode. Fluoroscopic equipment that is provided with both an AERC and a manual mode shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute in either mode at a point where the center of the useful beam enters the patient, except;

(a) During the recording of fluoroscopic images; or

(b) When the mode or modes have an optional high-level control, in which case that mode or modes shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient, unless the high-level control is activated. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(4) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirements set forth in sections 1, 2, and 3 of this rule.

(5) For fluoroscopic equipment manufactured on and after May 19, 1995, the following requirements will apply:

(a) Fluoroscopic equipment operable at any combination of tube potential and current that will result in an exposure rate in excess of five (5) roentgens (1.29 mC/kg) per minute at a point where the center of the useful beam enters the patient shall be equipped with AERC. Provision for manual selection of the technique factors may be provided.

(b) Fluoroscopic equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of ten (10) roentgens (2.58 mC/kg) per minute at a point where the center of the useful beam enters the patient except;

(A) During the recording of fluoroscopic images from an x-ray image-intensifier tube using photographic film or a video camera when the x-ray source is operated in a pulsed mode.

(B) When an optional high-level control is activated, the equipment shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of twenty (20) roentgens per minute at a point where the center of the useful beam enters the patient. Special means of activation of high-level controls shall be required. The high-level control shall be operable only when continuous manual activation is provided by the operator. A continuous signal audible to the fluoroscopist shall indicate that the high-level control is being employed.

(4) Measuring compliance. Compliance with the requirements of this rule shall be determined as follows:

(a) If the source is below the table, exposure rate shall be measured one (1) centimeter above the tabletop or cradle;

(b) If the source is above the table, the exposure rate shall be measured at thirty (30) centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;

(c) For a C-arm type of fluoroscope, the exposure rate shall be measured thirty (30) centimeters from the input surface of the fluoroscopic imaging assembly, with the source positioned at any available SID, provided that the end of the beam-limiting device or spacer is no closer than thirty (30) centimeters from the input surface of the fluoroscopic imaging assembly;

(d) For a lateral type fluoroscope, the exposure rate shall be measured at a point fifteen (15) centimeters from the centerline of the X-ray table and in the direction of the X-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measure-

ment. If the tabletop if moveable, it shall be positioned as closely as possible to the lateral X-ray source, with the end of the beam-limiting device or spacer no closer than fifteen (15) centimeters to the centerline of the X-ray table.

(5) Exemptions. Fluoroscopic radiation therapy simulation systems are exempt from the requirement set forth in section 5 of this rule.

(6) Periodic measurement of entrance exposure rate shall be performed as follows:

(a) Such measurement shall be made annually or after any maintenance of the system which might affect the exposure rate;

(b) Results of these measurements shall be posted where any fluoroscopist may have ready access to such results while using the fluoroscope and in the record required in OAR 333-106-0105(1)(c). The measurement results shall be stated in roentgens per minute and include the technique factors used in determining such results. The name of the person performing the measurements and the date the measurements were performed shall be included in the results;

(c) Personnel monitoring devices may be used to perform the measurements required by subsection (5)(a) of this rule, provided the measurements are made as described in subsection (5)(d) of this rule;

(d) Conditions of periodic measurement of entrance exposure rate are as follows:

(A) The measurement shall be made under the conditions that satisfy the requirements of section (4) of this rule;

(B) The kVp shall be the kVp typical of clinical use of the X-ray system;

(C) The X-ray system(s) that incorporates automatic exposure control shall have sufficient material placed in the useful beam to produce a milliamperage typical of the use of the X-ray system or the worst case; and

(D) X-ray system(s) that do not incorporate an automatic exposure control shall utilize a milliamperage typical of the clinical use of the X-ray system.

NOTE: Materials should be placed in the useful beam when conducting these periodic measurements to protect the imaging system.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0220

Indication of Potential and Current

During fluoroscopy and cinefluorography x-ray tube potential and current shall be continuously indicated. Deviation of x-ray tube potential and current from the indicated values shall not exceed the maximum deviation stated by the manufacturer.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0325

Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101, the requirements of this rule apply to X-ray equipment and associated facilities used for intraoral dental radiography. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320. Only systems meeting the requirements of OAR 333-106-0325 shall be used.

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than:

(a) 18 centimeters if operable above 50 kVp; or

(b) 10 centimeters if operable at 50 kVp only.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that the beam at the minimum SSD shall be containable in a circle having a diameter of no more than seven (7) centimeters:

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure by through the adjustment of exposure time, number of pulses, and/or current/milliamps (mA), or the product of current and exposure time (mAs). In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not initiated without such an action ; and

(b) It shall not be possible to make an exposure when the timer is set to a "zero" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Exposure termination.

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An x-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 1/2 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "zero".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control shall be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area which shall be located behind a secondary protective barrier as defined in OAR 333-106-0005(66)(b) and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of paragraph (4)(b)(A) of this rule;

(B) Used for less than one week at the same location, i.e., a room or suite, shall be provided with either a protective barrier of at least six and one half (6.5) feet (2 meters) high for operator protection, or a means to allow the operator to be at least nine (9) feet (2.7 meters) from the tube housing assembly while making exposures.

(5) Exposure Reproducibility. When the equipment is operated on an adequate power supply as specified by the manufacturer, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05 for any specific combination of technique factors. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (E_{max}) minus the minimum exposure (E_{min}):

$E > 5(E_{max} - E_{min})$.

(6) Accuracy. (a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer. In the absence of manufacturer's specifications the deviation shall not exceed ten (10) percent of the indicated value for kVp and twenty (20) percent for exposure time.

(b) kVp Limitations. Dental x-ray machines with a nominal fixed kVp of less than 50 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls:

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand-held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of subsections (2)(a) of this rule or its updated version;

(d) All patients shall be provided with a leaded lap apron during any X-ray exposure;

(e) Dental fluoroscopy without image intensification shall not be used;

(f) Pointed cones shall not be utilized unless specific authorization has been granted by the Agency.

Stat. Auth.: ORS453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, OSR 453.635 & ORS 453.695

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0575

Spot Checks

Spot checks shall be performed on systems subject to OAR 333-106-0480 during calibrations and thereafter at intervals not to exceed one month. Such spot checks shall meet the following requirements:

(1) The spot-check procedures shall be in writing and shall have been developed by a radiological physicist. A copy of the procedure shall be submitted to the Agency prior to its implementation.

(2) If a radiological physicist does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a radiological physicist within 15 days.

(3) The spot-check procedures shall specify the frequency at which tests or measurements are to be performed and the acceptable tolerance for each parameter measured in the spot check when compared to the value for that parameter determined in the calibration.

(4) At intervals not to exceed one week, spot checks shall be made to ensure that the energy remains within ± 3 percent.

(5) Where a system has built-in devices which provide a measurement of any parameter during irradiation, such measurement shall not be utilized as a spot-check measurement.

(6) The cause for a parameter exceeding a tolerance set by the radiological physicist shall be investigated and corrected before the system is used for patient irradiation.

(7) Whenever a spot check indicates a significant change in the operating characteristics of a system, as specified in the radiological physicist's spot-check procedures, the system shall be recalibrated as required in OAR 333-106-0570(1).

(8) Records of spot-check measurements shall be maintained by the registrant for a period of 2 years after completion of the spot-check measurements and any necessary corrective actions.

(9) Where a spot check involves a radiation measurement, such measurements shall be obtained using a system satisfying the requirements of OAR 333-106-0570(3) or which has been intercompared with a system meeting those requirements within the previous year.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0700
Definitions

In addition to the definitions provided in Division 100 and 106 of these rules, the following definitions shall be applicable to the rules in this section .

(1) Air Kerma means the sum of the initial energies of all the charged particles liberated by uncharged ionizing particles in a given mass of air. The unit used to measure the quantity of kerma is the Gray (Gy). For x-rays with energies below 300 kiloelectronvolts (keV), 1Gy=100 rad and is equivalent to 114 Roentgens (R) of exposure.

(2) FDA means the Food and Drug Administration.

(3) An Image receptor support surface means that portion of the image receptor support which is the x-ray input surface and is used to support the patient's breast during mammography.

(4) Interpreting physician means a licensed physician who interprets mammographic images and meets the qualifications of OAR 333-106-0750(2).

(5) Lead Interpreting Physician means a physician who interprets mammographic images, meets the qualifications of OAR 333-106-0750(2), and who has the general responsibility for ensuring that the registrant's quality assurance program meets all applicable rules and regulations.

(6) Mammographic screening means the use of radiation to test women for the detection of diseases of the breast when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such tests for the purposes of diagnosis. Screening is considered as self-referral by asymptomatic women without physicians orders (see OAR 333-100-0020(5)(6) and 333-106-0035(3)).

(7) Mammography means radiography of the breast.

(8) Mammography equipment evaluation means an onsite assessment of a mammography unit/s or image processor performance by a medical physicist for the purpose of making a preliminary determination as to whether the equipment meets all of the applicable state and federal standards.

(9) Mammography unit/s means an assemblage of components for the production of X-rays for use during mammography, including, at a minimum; An X-ray generator, an X-ray control, a tube housing assembly, a beam limiting device, and the supporting structures for these components.

(10) Medical Physicist means a person trained in evaluating the performance of mammography equipment and quality assurance programs and meets the qualifications of OAR 333-106-0750(3).

(11) MQSA means the Mammography Quality Standards Act of 1992.

(12) Phantom means a test object used to simulate radiographic characteristics of compressed breast tissue and containing components that radiographically model aspects of breast disease and cancer. (The "FDA accepted phantom" meets this requirement.)

(13) Quality Assurance is a comprehensive concept that comprises all of the management practices instituted by the registrant or the registrant's representative/s to ensure that:

(a). Every imaging procedure is necessary and appropriate to the clinical problem at hand;

(b) The images generated contain information critical to the solution of that problem;

(c) The recorded information is correctly interpreted and made available in a timely fashion to the patient's physician;

(d) The examination results in the lowest possible radiation exposure, cost, and inconvenience to the patient, consistent with objective (b) noted above.

(14) Quality Assurance Program includes such facets as efficacy studies, continuing education, quality control, preventive maintenance, and calibration of equipment.

(15) Quality Control means a series of distinct technical procedures that ensure the production of a satisfactory product, e.g., a high quality screening or diagnostic image.

(16) Quality Control Technologist means an individual who is qualified under MQSA, and who is responsible for those quality assurance responsibilities not assigned to the Lead Interpreting Physician or to the Medical Physicist.

(17) Resting period means the period of time necessary to bleed out air that has been trapped between the radiographic film and intensifying screen during the loading process in the darkroom. This period of time is usually measured in minutes and determined by the individual manufacturer of the intensifying screen/mammography cassette combination.

(18) Standard Breast means a 4.2 centimeter(cm) thick compressed breast, consisting of 50 percent adipose, and 50 percent glandular tissue.

(19) Survey means an onsite physics consultation and evaluation of a registrant's mammography equipment, and quality assurance program performed by a medical physicist.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0710
Equipment Standards

Only x-ray systems meeting the design and performance standards required under MQSA shall be used, unless otherwise specified in the following rules.

(1) System design. The x-ray system shall be specifically designed for mammography.

(2) Image receptor.

(a) Image receptor systems shall be specifically designed, or appropriate for mammography.

(b) Systems using screen-film image receptors shall provide, at a minimum, image receptor sizes of 18X24, and 24X30 centimeters (cm).

(c) An adequate number of image receptors shall be provided to accommodate the resting period recommended by the manufacturer.

(3) Target/filter. The x-ray system shall have the capability of providing kVp/target/filter combinations compatible with image receptor systems meeting the following requirements;

(a) When more than one focal spot is provided, the system shall indicate, prior to exposure, which focal spot is selected.

(b) When more than one target is provided, the system shall indicate, prior to exposure, the preselected target material.

(c) When the target material and/or focal spot is selected by a system algorithm that is based on the exposure or on a test exposure, the system shall display, after exposure, the target material and/or focal spot actually used during the exposure.

(4) Beam quality: When used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam shall have a minimum half-value layer (HVL). The minimum HVL, for mammography equipment designed to operate below 50 kVp, is determined by dividing the actual kVp by 100, and is expressed in millimeters (mm) of aluminum equivalent.

(5) Resolution. Until October 28, 2002, focal spot condition shall be evaluated either by determining system resolution or by measuring focal spot dimensions. After October 28, 2002, facilities shall evaluate focal spot condition only by determining system resolution.

(a) Each X-ray system used for mammography, in combination with the mammography screen-film combination used, shall provide a minimum resolution of 11 Cycles/millimeters (mm)(line-pairs/mm) when a high contrast resolution bar test pattern is oriented with the bars perpendicular to the anode-cathode axis, and a minimum resolution of 13 line-pairs/mm when the bars are parallel to that axis .

(b) The bar pattern shall be placed 4.5 centimeters (cm) above the image receptor support surface, centered with respect to the chest wall edge

of the image receptor, and with the edge of the pattern within 1 centimeter (cm) of the chest wall edge of the image receptor.

(6) Compression.

(a) All mammography systems shall incorporate a compression device capable of compressing the breast with a force of at least 25 pounds.

(b) Effective October 28, 2002, the maximum compression force for the initial power drive shall be between 25 pounds and 45 pounds.

(c) All mammography systems shall be equipped with different sized compression paddles that match the sizes of all full field image receptors provided for the system. The compression paddle shall:

(A) Be flat and parallel to the image receptor support and shall not deflect from parallel by more than 1.0 centimeter (cm) at any point on the surface of the compression paddle when compression is applied. If the compression paddle is not designed to be flat and parallel to the image receptor support during compression, it shall meet the manufacturer's design specifications and maintenance requirements;

(B) Have a chest wall edge that is straight and parallel to the edge of the image receptor support;

(C) Clearly indicate the size and available positions of the detector at the x-ray input surface of the compression paddle;

(D) Not extend beyond the chest wall edge of the image receptor support by more than one (1) percent of the SID when tested with the compression paddle placed above the support surface at a distance equivalent to a standard breast thickness;

(E) Shall not be visible, at it's vertical edge, on the image.

(c) When equipped with a compression paddle height digital display, the display shall accurately represent the actual height of the compression paddle to within + or - 0.5 centimeter (cm). Testing shall be performed according to manufacturer's specifications.

(7) System capabilities. A mammographic x-ray system utilizing screen-film image receptors shall:

(a) Be equipped with moving grids matched to all image receptor sizes provided.

(b) Provide an AEC mode that is operable in all combinations of equipment configuration provided, e.g., grid, non-grid, magnification; and various target-filter combinations.

(A) The automatic exposure control shall be capable of maintaining film optical density (OD) within + or - 0.30 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 centimeters (cm) and the kVp is varied appropriately for such thicknesses over the kVp range used clinically. If this requirement can not be met, a technique chart shall be developed showing appropriate techniques (kVp and density control settings) for different thicknesses and compositions that must be used so that optical densities within + or - 0.30 of the average under photo- timed conditions can be produced ;

(B) After October 28, 2002, the AEC shall be capable of maintaining film optical density (OD) to within + or - 0.15 of the mean optical density when thicknesses of a homogeneous material are varied over a range of 2 to 6 centimeters (cm) and the kVp is varied appropriately for such thicknesses over the kVp range used clinically.

(8) Breast entrance kerma and AEC reproducibility. The coefficient of variation for both air kerma and mAs shall not exceed 0.05.

(9) Collimation.

(a) All mammography systems shall have beam limiting devices that allow the entire chest wall edge of the X-ray field to extend to the chest wall edge of the image receptor and provide means to assure that the X-ray field does not extend beyond any edge of the image receptor by more than two (2) percent of the SID. Under no circumstances, shall the X-ray field extend beyond the non-chest wall edges of the image receptor support.

(b) The total misalignment of the edges of the visually defined light field with the respective edges of the X-ray field either along the length or width of the visually defined field shall not exceed two (2) percent of the SID.

(10) Kilovoltage peak (kVp) accuracy and reproducibility;

(a) The kVp, shall be accurate within + or - five (5) percent of the indicated or selected kVp at the lowest clinical kVp that can be measured by a kVp test device, and the most commonly used, and highest available clinical kVp, and;

(b) At the most commonly used clinical settings of kVp, the coefficient of variation of reproducibility of the kVp shall be equal to or less than 0.02.

(11) Dose. The average glandular dose delivered during a single cranio-caudal view of an FDA accepted phantom simulating a standard breast, shall not exceed 200 millirad (2.0 mGy). The dose shall be determined with technique factors and conditions used, by the registrant, clinically for a standard breast. The testing protocol used shall be the same as used by MQSA.

(a) If the average glandular dose exceeds 200 millirad (2.0 mGy) but is no greater than 250 millirad (2.5 mGy), patient mammography may be continued until the cause of the problem is determined and corrected. Correction must be completed within thirty (30) working days of when the registrant became aware of the problem. If correction has not been completed within thirty (30) working days, and the registrant has not requested an extension in writing from the agency, patient mammography must cease until correction of the dose problem has occurred.

(b) If the average glandular dose exceeds 250 millirad (2.5 mGy), patient mammography must cease until the cause of the dose problem is determined and corrected.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0720

Quality Assurance Program

(1) The registrant shall have a written, on-going equipment quality assurance program specific to mammographic imaging, covering all components of the diagnostic x-ray imaging system. The quality assurance program shall include the testing required in section (5) of this rule, as well as the evaluation of the test results and corrective actions necessary to ensure consistently high-quality images with minimum patient exposure. Responsibilities under this requirement are as follows:

(a) The registrant shall identify in policy/procedure, by name, a Lead Interpreting Physician meeting the requirements of OAR 333-106-0750(2), whose responsibilities at a minimum must include:

(A) Ensuring that the registrant's quality assurance program meets all associated rules and regulations;

(B) Ensuring that an effective quality assurance program exists;

(C) Providing frequent feedback to mammography technologists regarding film quality and quality control procedures ;

(D) Reviewing the Quality Control Technologist's test data at least every three months, or more if consistency has not been shown or problems are evident ;

(E) Reviewing the Medical Physicist's annual survey report/or equipment evaluation results.

(b) The registrant shall identify in policy/procedure, by name, and have the services of, a Medical Physicist who meets the requirements of OAR 333-106-0750(3). The Medical Physicist shall assist in overseeing the equipment quality assurance practices of the registrant. At a minimum, the Medical Physicist shall be responsible for the annual surveys, mammography equipment evaluations, and associated reports meeting all the requirements of MQSA.

(c) The registrant shall identify in policy/procedure, by name, a single qualified Quality Control Technologist meeting the requirements of OAR 333-106-0750(1), who shall be responsible for:

(A) equipment performance monitoring functions;

(B) Analyzing the monitoring results to determine if there are problems requiring correction;

(C) Carrying out or arranging for the necessary corrective actions when results of quality control tests including those specified in section (5) of this rule, indicate the need; and

(D) The Quality Control Technologist may be assigned other tasks associated with the quality assurance program that are not assigned to the Lead Interpreting Physician or Medical Physicist. These additional tasks must be documented in written policy/procedure.

(2) Annual Survey. At intervals not to exceed 12-14 months, the registrant shall have a Medical Physicist meeting the requirements of OAR 333-106-0750(3) conduct a survey to evaluate the mammography equipment, and the effectiveness of the quality assurance program required in section (1) of this rule. Records of annual surveys shall be maintained for a minimum of two years, and shall be available on-site for agency review.

(3) Annual survey/or equipment evaluation corrective actions. Corrective action shall be completed within thirty (30) working days of when the registrant received written or verbal notice of recommendations or failures on their annual survey /or equipment evaluation report, unless otherwise noted in these rules or a written request for extension has been submitted to and approved by the Agency;

(a) Correction of equipment related failures or recommendations shall be demonstrated by a repeat test using the same test methodology and documentation, or a test accepted as the equivalent by the Agency, that was used to initially identify the problem.

(b) When the results of a quality control test/s fail to meet applicable action limits defined in these rules, the appropriate action regarding the suspension or continuation of mammography as defined in these rules or in MQSA, shall be taken.

(4) Quality assurance records. The registrant shall ensure that;

(a) Records concerning employee qualifications to meet assigned quality assurance tasks, mammography technique and procedures, policies, previous inspection findings, and radiation protection are maintained until inspected by the agency.

(b) Quality control monitoring data and records, problems detected by the analysis of that data, corrective actions, and records of the Lead Interpreting Physician's periodic reviews of the Quality Control Technologist's monitoring data taken must be maintained for a minimum of two years.

(5) Equipment quality control tests frequency. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed or replaced and performed thereafter at least as often as the frequency specified as follows; [Table not included. See ED. NOTE.]

(6) Testing methods and action limits for quality control tests shall meet the most current requirements of MQSA, in addition to the following;

(7) Screen/film contact. Screen film contact tests shall be performed on all screens used clinically, using a 40 mesh test tool and 4 cm thick sheet of acrylic. Screens demonstrating one or more areas of poor contact that are greater than 1 cm in diameter, that are not eliminated by screen cleaning, and remain in the same location during subsequent tests, shall not be used for mammography. Screen/film contact shall be such that any areas of poor contact, regardless of size, shall not detract from image quality.

(8) Processor performance. A processor performance test shall be performed by sensitometric means and evaluated daily, after the solution temperature in the processor has reached proper temperature, and just prior to processing any clinical mammograms. The test shall be an assessment of the base plus fog, mid-density, density difference, and developer temperature .

(a) Sensitometers and densitometer used to evaluate processor performance shall be calibrated every twelve (12) months and a record of the calibration shall be maintained until inspected by the Agency.

(b) The mid-density and density difference action limits must be within + or - 0.15 of the control operating level.

(c) The base plus fog (B+F) action limit must be within + or - 0.03 of the control operating level.

(d) If the mid-density and/or the density difference fall outside of the + or - 0.10 control limit but within the + or - 0.15 control limit for a period of three (3) days (a trend), steps must be taken to determine the cause and correct the problem ;

(e) If the mid-density and/or the density difference falls outside of the + or - 0.15 control limit, mammograms must not be processed through the processor until the cause of the problem is determined, corrected, and a repeat test is done demonstrating that the mid-density and/or density difference are within the + or - 0.15 control limit;

(f) Processor quality control graphs must be in the format of the registrant's accrediting body or equivalent, and indicate test date/s, mid-density and density difference action limits, base plus fog action limit, film brand, type and emulsion number in use, as well as high-lighting the date column when chemistry changes occurred, and noting corrective action taken when limits are exceeded ;

(g) Cross over records and calculations must be maintained for agency review. New mid-density and /or density difference operating levels must be charted on a new graph page.

(h) Re-establishment of operating levels must be done in accordance with the accrediting body's protocol regarding the appropriateness of this procedure or at the specific direction of the facility's medical physicist.

(i) While re-establishing operating levels (five day average), the facility must chart each day's results against it's old operating control levels. At the end of the of the five days, a new chart must be established, indicating the new calculated operating limits. During the five day average, the facility will not be cited for having exceeded the old processor operating levels, and must also do a phantom image test each day. Should the phantom image test exceed either the +- 0.20 background optical density limit or the +- 0.05 density difference limit, mammography must be suspended until the cause of the problem is identified and corrected, and a repeat phantom image test is shown to be within limits.

(9) Primary/secondary barrier transmission - upon initial x-ray system installation and significant modification of the system or the facility.

(10) Image quality. The mammography system must be capable of producing an image of the phantom demonstrating the following;

(a) A minimum score of four (4.0) fibers, three (3.0) speck groups, and three (3.0) masses (or the most current minimum score established by the accrediting body and accepted by the FDA).

(b) Background density action limits within + or - 0.20 of the control level ;

(c) Density difference action limits within + or - 0.05 of the control level ;

(d) Milliampere seconds (mAs) within + or - 15% of the control level ;

(e) Demonstrating a level of contrast sufficient enough to clearly help define fibril, speck, and mass edges.

(f) Without objectionable levels of image noise or quantum mottle that obscure the visualization of fibrils, specks, or masses.

(g) Demonstrating reasonably sharp fibril, and mass margins.

(h) With a minimum optical density (measured at the center of the phantom) of 1.20.

(i) Phantom image test records must be in the most current format of the registrant's accrediting body or the equivalent, and indicate the exposure mode, kVp, and photo-cell used for the test as well as remarks indicating the corrective action that was taken when limits were exceeded.

(j) When phantom image results do not meet the requirements defined in sections (a), (b), (c), (d), (e), (f),(g),or (h) of this rule, corrective action must occur, and a repeat phantom image test must be performed demonstrating compliance, before further mammography examinations are performed using the x-ray machine.

(11) Darkroom fog. Darkroom fog levels shall not exceed 0.05 in optical density when sensitized film is exposed to darkroom conditions with safelight on for two (2) minutes. Film shall be sensitized by exposing it to sufficient light from an appropriate intensifying screen so that after processing, an optical density of at least 1.20 is achieved.

(a) If the darkroom fog level exceeds 0.05 in optical density but is less than 0.10, mammography may be continued until the problem is corrected.

(b) If the darkroom fog level exceeds 0.10 in optical density, mammography must be curtailed until the problem is corrected and the fog level no longer exceeds 0.05 in optical density.

(12) Repeat rate. Corrective actions shall be recorded and the results of these corrective actions shall be assessed if the reject rate exceeds five (5) percent or changes by +2% from the previously measured rate. The reject rate shall be based on repeated clinical images.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0730

Additional Requirements

(1) Masks. Masks shall be provided on the view boxes to block extraneous light from the viewer's eye when the illuminated surface of the view box is larger than the area of clinical interest.

(2) Film processing. Film processors utilized for mammography shall be:

(a) Used with x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography.

(b) Use chemical solutions that are capable of developing the films used by the facility in a manner equivalent to the minimum requirements specified by the film manufacturer.

(c) Be adjusted to and operated at the specifications recommended by the mammographic film manufacturer, or at other settings such that the sensitometric performance is at least equivalent.

(3) Instruments and devices. The following instruments and devices shall be available and properly maintained;

(a) FDA accepted image quality phantom;

(b) 21 step sensitometer that is calibrated every 12 months;

(c) Densitometer that is calibrated every 12 months and checked against the instrument control strip at least monthly.

(4) Image retention. Clinical images shall be retained for a minimum of five (5) years or not less than ten (10) years if no additional mammograms of the patient are performed.

(5) Mobile Mammography. In addition to meeting the requirements of this section as well as OAR 333-106-0699, 333-106-0710, 333-106-0720, 333-106-0730, and 333-106-0750, registrants shall ensure that for a mammography system that is used at more than one location:

(a) The film processor is operated in accordance with the requirements of OAR 333-106-0740(2)(a)(b)(c)(d), and is located where the mammography examinations are performed (batch processing is prohibited).

(b) The following tests are conducted, evaluated and documented after every move and before any mammography examinations are conducted, in order to verify that the unit's performance continues to meet quality requirements:

(A) Phantom image;

(B) The measured radiation output or the data from the post exposure mAs display does not deviate by more than + or - 10 % of the established operating level.

(6) Technique charts. Mammography technique charts shall posted in the vicinity of the mammography system's X-ray control. The technique chart shall indicate;

(a) Technique factors for 3, 3-5, 5-7, and > 7 centimeter compressed breast thicknesses for fatty, 50 percent fatty-50 percent dense, and dense breast tissue;

(b) The target/filter combination to be used;

(c) The kVp to be selected for the patient sizes and breast tissue compositions indicated in section (a) of this rule, or if an auto-kVp mode is used, indicate the post kVp that is selected;

(d) The exposure mode to be used (i.e. auto-kVp, manual, etc.);

(e) The manual technique factors to be used for small, medium, and large sized breast tissue specimens, and Implanted breasts;

(f) The film/ screen combination to be used;

(g) The date that the technique chart was last reviewed for accuracy and the name of the reviewer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-106-0750
Personnel Qualifications

(1) Operator qualifications. In order to use any mammography X-ray machine the operator of the mammography X-ray unit must have the following qualifications:

(a) Have a current license issued by the Oregon Board of Radiologic Technology; and

(b) Have prior to the effective date of these rules qualified as a radiologic technologist under the MQSA interim rules or completed forty (40) contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not be limited to;

(A) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, imaging patients with breast implants;

(B) The performance of 25 examinations under the direct supervision of an individual qualified under this section; and

(C) At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography exams; and

(D) Be currently registered and in good standing with the American Registry of Radiologic Technologist (ARRT); and

(E) Be certified in mammography by the ARRT or the equivalent; or

(F) Provide documented evidence that an ARRT mammography certification test is scheduled. Technologists meeting the requirements of sections (1)(a)(b)(A)(B)(C)(D) of this rule may work under the supervision (supervision means that a fully qualified technologist is on-site and readily available to answer questions or assist) of a technologist, meeting all of the requirements of this rule, for up to one year while waiting to take the certification test.

(2)(a) Interpreting Physician qualifications. All physicians interpreting mammograms shall meet MQSA qualifications; and

(b) Hold a current license to practice medicine in the State of Oregon;

(3) Medical Physicist qualifications. All Medical Physicists conducting surveys and equipment evaluations of mammography facilities and providing oversight of their quality assurance programs shall;

(a) Meet MQSA requirements; and

(b) Be currently licensed as a vendor by the agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-111-0010
Instructions to Workers

All individuals working in or frequenting any portion of a restricted area:

(1) Shall be kept informed of the storage, transfer or use of sources of radiation in such portions of the restricted area;

(2) Shall be instructed in the health protection problems associated with exposure to radiation or radioactive material, in precautions or procedures to minimize exposure and in the purposes and functions of protective devices employed;

(3) Shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of these rules and licenses for the protection of personnel from exposures to radiation or radioactive material occurring in such areas;

(4) Shall be instructed of their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to or cause a violation of Agency rules and licenses or unnecessary exposure to radiation or radioactive material;

(5) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

(6) Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to OAR 333-111-0015.

(7) Refresher training shall be provided at intervals not to exceed three (3) years covering the topics identified in 333-111-0010.

NOTE: The extent of these instructions shall be commensurate with potential radiological health protection problems in the restricted area.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.745
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0010
Purpose and Scope

This Division establishes requirements and provisions to regulate the production, preparation, compounding and use of radionuclides in the healing arts and for issuance of licenses authorizing the medical use of this material. These requirements and provisions provide for the protection of the public health and safety. The requirements and provisions of this Division are in addition to, and not in substitution for, others in these Rules. The requirements and provisions of these Rules apply to applicants and licensees subject to this Division unless specifically exempted.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605 - ORS 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0020
Definitions

As used in this Division, the following definitions apply:

(1) "Address of use" means the building or buildings that are identified on the license and where radioactive material may be received, used, or stored.

(2) "Area of use" means a portion of an address of use that has been set aside for the purpose of receiving, using or storing radioactive material;

(3) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915; or

(b) Is identified as an authorized nuclear pharmacist on an Agency, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of byproduct material in the practice of nuclear pharmacy; or

(c) Is identified as an authorized nuclear pharmacist on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Agency, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(4) "Authorized user" means a practitioner of the healing arts who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740 or

(b) is identified as an authorized user on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Agency, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(5) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(6) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centimeters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(7) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(8) "Dental use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(9) "Dentist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(10) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(11) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of 2 gray (200 rads) per hour, to the point or surface where the dose is prescribed.

(12) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than 2 gray (200 rads) per hour, to the point or surface where the dose is prescribed.

(13) "Management" means the chief executive officer or that individual's designee;

(14) "Medical institution" means an organization in which several medical disciplines are practiced;

(15) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation therefrom, to patients or human research subjects under the supervision of an authorized user.

(16) "Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(17) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 μCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical, or

(B) When both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceed 1.11 megabecquerels (30 μCi).

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131;

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(A) Involving the wrong individual , wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(A) Involving the wrong individual , wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 megabecquerels (30 μCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual , wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; or

(B) When the dose to the individual exceeds 50 millisieverts (5 rem) effective dose equivalent or 500 millisieverts (50 rem) dose equivalent to any individual organ.

(18) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(19) "Nuclear Pharmacist" means an authorized nuclear pharmacist, as defined in OAR 333-116-0020(3), who has received additional training, pursuant to 333-116-0910 and 333-116-0915 in the management and handling of radioactive drugs and is authorized by license to receive, use, transfer, and dispose of such radioactive drugs.

(20) "Output" means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(21) "PET" means Positron Emission Tomography

(22) "PET Isotope Nuclear Pharmacy" means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(23) "PET cyclotron facility" means a facility that manufacturers short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(24) "PET Medical Facility" means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(25) "Pharmacist" means an individual licensed by a State or Terrritory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(26) "Physician" means a medical doctor or doctor of osteopathy licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(27) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive; or

(b) Either in the diagnositic clinical procedures manual or in any appropriate record, in accordance with the directions of the authorized user for diagnostic procedures.

(28) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction, as documented in the written directive;

(c) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote afterloaders, the total dose as documented in the written directive.

(29) "Podiatric use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(30) "Podiatrist" means an individual licensed by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(31) "Positron Emission Tomography (PET) facility" means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(32) "Prescribed dosage" means the quantity of radiopharmaceutical activity as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(33) "Prescribed dose" means

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote afterloaders, the total dose as documented in the written directive.

(34) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the "high dose rate" range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(35) "Radiation Safety Officer" means the individual identified as the Radiation Safety Officer on a Agency, Agreement State, or U.S. Nuclear Regulatory Commission license.

(36) "Recordable event" means the administration of:

(a) A radiopharmaceutical or radiation without a written directive where a written directive is required;

(b) A radiopharmaceutical or radiation where a written directive is required without daily recording of each administered radiopharmaceutical dosage or radiation dose in the appropriate record;

(c) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 μCi) of either sodium iodide I-125 or I-131 when both:

(A) The administered dosage differs from the prescribed dosage by more than 10 percent of the prescribed dosage, and

(B) The difference between the administered dosage and prescribed dosage exceed 15 micro-curies;

(d) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131, when the administered dosage differs from the prescribed dosage by more than 10 percent of the prescribe dosage;

(e) A teletherapy radiation dose when the calculated weekly administered dose is 15 percent greater than the weekly prescribed dose; or

(f) A brachytherapy radiation dose when the calculated administered dose differs from the prescribed dose by more than 10 percent of the prescribed dose.

(37) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(38) "Stereotactic radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(39) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(40) "Teletherapy physicist" means the individual identified as the qualified teletherapy physicist on a Agency license.

(41) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(42) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(43) "Unit dosage" means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Agency as a nuclear pharmacy.

(44) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(45) "Written directive" means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 μCi) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0025
FDA, Other Federal, and State Requirements

Nothing in this part relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radioactive drugs or devices.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.605
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0035
Application for License, Amendment, or Renewal

(1) An application must be signed by the management of the facility.

(2) An application for a license for medical use of radioactive material as described in OAR 333-116-0200, 333-116-0300, 333-116-0320, 333-116-0360, 333-116-0400, and 333-116-0420 and for medical use of remote afterloaders in 333-116-0480, must be made by filing a "Radioactive Materials License Application — Medical". A request for a license amendment or renewal may be submitted in letter format.

(3) Except for medical use of remote afterloaders, a separate license application must be filed for each medical use of radioactive material as described in 333-116-0480 by filing a "Radioactive Materials License Application — Medical" A request for a license amendment or renewal may be submitted in letter format.

(4) An application for a license for medical use of radioactive material as described in 333-116-0800 must be made by filing a "Radioactive Materials License Application — Medical".

(a) In addition to the information required in the "Radioactive Materials License Application — Medical", the application must also include information regarding any radiation safety aspects of the medical use of the radioactive material that is not addressed in this division, as well as any specific information necessary for:

(A) Radiation safety precautions and instructions;

(B) Training and experience of proposed users;

(C) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(D) Calibration, maintenance, and repair of equipment necessary for radiation safety.

(b) The applicant of licensee shall also provide any other information requested by the Agency in its review of the application.

(5) An applicant that satisfies the requirements specified in OAR 333-102-0900 may apply for a Broad Scope A specific license.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0040
License Amendments

A licensee shall apply for and shall receive a license amendment:

(1) Before using radioactive material for a method or type of medical use not permitted by the license issued under this Division;

(2) Before permitting anyone, except a visiting authorized user described in OAR 333-116-0110, to work as an authorized user, authorized nuclear pharmacist, or authorized medical physicist under the license except an individual who is:

(a) An authorized user who meets the requirements of 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0690, 333-116-0700, 333-116-0710 or 333-116-0720 of these rules;

(b) An authorized nuclear pharmacist who meets the requirements in OAR 333-116-0910;

(c) Identified as an authorized user, or an authorized nuclear pharmacist on a Nuclear Regulatory Commission or Agreement State license that authorizes the use of radioactive material in medical use or in the practice of nuclear pharmacy, respectively; or

(3) Before changing the Radiation Safety Officer or Teletherapy Physicist;

(4) Before receiving radioactive material in excess of the amount authorized on the license;

(5) Before adding to or changing the area of use or mailing address identified on the license; and

(6) Before changing statements, representations and procedures which are incorporated into the license.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0050
Notifications

(1) A licensee shall provide to the Agency a copy of the board certification, the Nuclear Regulatory Commission or Agreement State license, or the permit issued by a licensee of Broad Scope for each individual no later than 30 days after the date that the licensee permits the individual to work as an authorized user, an authorized nuclear pharmacist, pursuant to OAR 333-116-0040(2)(a) through (c)

(2) A licensee shall notify the Agency by letter no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer or an authorized medical Physicist permanently discontinues performance of duties under the license or has a name change.

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name does not constitute a transfer of control ot the license as described in OAR 333-102-0305 of these rules; or

(d) The licensee has added to or changed the areas where radioactive material is used in accordance with 333-116-0200 and 333-116-0300.

(3) The licensee shall mail the documents required in this Division to the Agency for review.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0055
Exemptions Regarding Type a Specific Licenses of Broad Scope

A licensee possessing a Type A specific license of broad scope for medical use is exempt from:

(1) The provisions of OAR 333-116-0040(2);

(2) The provisions of 333-116-0040(5) regarding additions to or changes in areas of use only at the addresses specified in the license;

(3) The provisions of 333-116-0050(1);

(4) The provisions of 333-116-0050(2)(a) for an authorized user, or authorized nuclear pharmacist, and

(5) The provisions of 333-116-0140(1).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0057
License Issuance

(1) The Agency shall issue a license for the medical use of radioactive material if:

(a) The applicant has filed a "Radioactive Materials License Application — Medical" in accordance with the instructions in OAR 333-116-0035;

(b) The applicant has paid any applicable fee as provided in Division 103 of these rules;

(c) The Agency finds the applicant equipped and committed to observe the safety standards established by the Agency in these rules for the protection of the public health and safety; and

(d) The applicant meets the requirements of division 102 of these rules.

(2) The Agency shall issue a license for mobile services if the applicant:

(a) Meets the requirements in paragraph (1) above; and

(b) Assures that individuals or human research subjects to whom radiopharmaceuticals or radiation from implants will be administered may be released following treatment in accordance with 333-116-0460.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0059
Specific Exemptions

The Agency may, upon application of any interested person or upon its own initiative, grant such exemptions from the regulations in this division as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0070
Radiation Safety Officer

(1) A licensee shall appoint a Radiation Safety Officer responsible for implementing the radiation safety program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's radioactive material program.

(2) The Radiation Safety Officer shall:

(a) Investigate overexposures, accidents, spills, losses, thefts, unauthorized receipts, uses, transfers, disposals, misadministrations and other deviations from approved radiation safety practice and implement corrective actions as necessary;

(b) Establish and implement written policy and procedures for:

(A) Authorizing the purchase of radioactive material;

(B) Receiving and opening packages of radioactive material;

(C) Storing radioactive material;

(D) Keeping an inventory record of radioactive material;

(E) Using radioactive material safely;

(F) Taking emergency action if control of radioactive material is lost;

(G) Performing periodic radiation surveys;

(H) Performing checks and calibrations of survey instruments and other safety equipment;

(I) Disposing of radioactive material;

(J) Training personnel who work in or frequent areas where radioactive material is used or stored; and

(K) Keeping a copy of all records and reports required by the Agency Rules, a copy of these Rules, a copy of each licensing request and license and amendments and the written policy and procedures required by the Rules.

(c) Brief management once each year on the byproduct material program;

(d) Establish personnel exposure investigational levels that, when exceeded, will initiate an investigation by the Radiation Safety Officer of the cause of the exposure;

(e) Establish personnel exposure investigational levels that, when exceeded, will initiate a prompt investigation by the Radiation Safety Officer of the cause of the exposure and a consideration of actions that might be taken to reduce the probability of recurrence;

(f) For medical use not sited at a medical institution, approve or disapprove radiation safety program changes with the advice and consent of management prior to submission to the Agency for licensing action;

(g) For medical use sited at a medical institution, assist the Radiation Safety Committee in the performance of its duties.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0080
Radiation Safety Committee

(1) Each medical institution licensee shall establish a Radiation Safety Committee to oversee the use of radioactive material which shall meet the following administrative requirements:

(a) Membership must consist of at least three individuals and shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service and a representative of management who is neither an authorized user nor a Radiation Safety Officer. Other members may be included as the licensee deems appropriate;

(b) The Committee shall meet a least once each calendar quarter;

(c) To establish a quorum and to conduct business, one-half of the Committee's membership shall be present, including the Radiation Safety Officer and the management's representative;

(d) The minutes of each Radiation Safety Committee meeting shall include:

(A) The date of the meeting;

(B) Members present;

(C) Members absent;

(D) Summary of deliberations and discussions;

(E) Recommended actions and the numerical results of all ballots; and

(F) Document any reviews required in OAR 333-116-0060(2) and 333-116-0080(2).

(e) The Committee shall provide each member with a copy of the meeting minutes and retain one copy until the Agency authorizes its disposition.

(2) To oversee the use of licensed material, the Committee shall:

(a) Be responsible for monitoring the institutional program to maintain individual and collective doses as low as reasonably achievable;

(b) Review, on the basis of safety and with regard to the training and experience standards of this division, and approve or disapprove any individual who is to be listed as an authorized user, the Radiation Safety Officer or Teletherapy Physicist before submitting a license application or request for amendment or renewal;

(c) Review on the basis of safety and approve or disapprove each proposed method of use of radioactive material;

(d) Review on the basis of safety, and approve with the advice and consent of the Radiation Safety Officer and the management representative, or disapprove procedures and radiation safety program changes prior to submission to the Agency for licensing action;

(e) Review quarterly, with the assistance of the Radiation Safety Officer, occupational radiation exposure records of all personnel working with radioactive material;

(f) Review quarterly, with the assistance of the Radiation Safety Officer, all incidents involving radioactive material with respect to cause and subsequent actions taken;

(g) Review annually, with the assistance of the Radiation Safety Officer, the radioactive material program; and

(h) Establish a table of investigational levels for occupational dose that, when exceeded, will initiate investigations and considerations of action by the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0090
Statement of Authorities and Responsibilities

(1) A licensee shall provide the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee, sufficient authority and organizational freedom to:

(a) Identify radiation safety problems;

(b) Initiate, recommend or provide solutions; and

(c) Verify implementation of corrective actions.

(2) A licensee shall establish in writing the authorities, duties, responsibilities and radiation safety activities of the Radiation Safety Officer, and at a medical institution the Radiation Safety Committee.

(3) In addition to the radiation protection program requirements of OAR 333-120-0020, a licensee's management shall approve in writing:

(a) Requests for license application, renewal, or amendments before submission to the Agency;

(b) Any individual before allowing that individual to work as an authorized user, authorized nuclear pharmacist, authorized medical physicist; and

(c) Radiation protection program changes that do not require a license amendment and are permitted under 333-116-0040 and 333-116-0500;

(4) A license with multiple modalities or multiple users shall also develop, implement, and maintain written administrative procedures for interdepartmental/interdisciplinary coordination of the licensee's radiation protection program.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0100
Supervision

(1) A licensee who permits the receipt, possession, use or transfer of radioactive material by an individual under the supervision of an authorized user as allowed by OAR 333-116-0030 shall:

(a) Instruct the supervised individual in the licensee's written radiation protection procedures, written directive procedures, the licensee's written quality management program, the Oregon Rules for the Control of Radiation and the institutions radioactive materials license conditions appropriate to that individual's use of radioactive material; and

(b) Review the supervised individual's use of radioactive material, provide reinstruction as needed and review records kept to reflect this use;

(c) Require the authorized user to be immediately available to communicate with the supervised individual;

(d) Require the authorized user to be able to be physically present and available to the supervised individual (on one hour notice); and

(e) Require that only those individuals specifically trained and designated by the authorized user, shall be permitted to administer radionuclides or radiation to patients.

(2) A licensee that permits the preparation of radioactive material for medical use by an individual under the supervision of an authorized nuclear pharmacist or physician who is an authorized user, as allowed by OAR 333-116-0030(3), shall

(a) Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual's use of radioactive material, and

(b) Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, the written radiation protection procedures established by the licensee and this Division, and license conditions.

(3) A licensee shall establish, implement and maintain a policy for all supervised individuals to request clarification, as needed, from:

(a) The authorized user, before initiating or continuing any procedure that requires a written directive, if the supervised individual has any question about what should be done or how it should be done; and

(b) The authorized user or authorized nuclear pharmacist about the instructions and requirements provided to the supervised individual in accordance with paragraphs (1) and (2).

(4) A licensee that permits supervised activities under paragraph (1) and (2) is responsible for the acts and omissions of the supervised individual.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0105
Written Directives

(1) A written directive must be prepared, dated and signed by an authorized user prior to administration of I-131 sodium iodide greater than 1.11 Megabecquerels (MBq)(30 microcuries (μCi)), any therapeutic dosage of a radiopharmaceutical, or any therapeutic dose of radiation from radioactive material.

NOTE 1: If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in writing in the patient's record. (i.e. written directive is prepared within 48 hours of the oral directive)

NOTE 2: If, because of a patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize a patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision. Also, a written revision to an existing written directive may be made by any diagnostic or therapeutic procedure provided that the revision is dated and signed by the authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic dose, the teletherapy dose, or the next teletherapy fractional dose.

(2) The written directive must contain the patient or human research subject's name and the following:

(a) For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131; the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-131: the radiopharmaceutical dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates (including gamma angle), collimator size, plug pattern, total dose for the treatment, and the total treatment volume;

(d) For teletherapy: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(e) For remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: treatment site, the radionuclide, number of sources and source strengths or dose; and

(B) After implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time (or equivalently, the total dose).

(3) The licensee shall retain the written directive until records are reviewed by Agency inspectors.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: ; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0107
Procedures for Administrations Requiring a Written Directive

(1) For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

(a) The patient's or human research subject's identity is verified before each administration; and

(b) Each administration is in accordance with the written directive.

(2) The procedures required by paragraph (1) of this section shall, at a minimum, address:

(a) Verifying the identity of the patient or human research subject;

(b) Verifying that the specific details of the administration are in accordance with the written directive and treatment plan;

(c) Checking both manual and computer-generated dose calculations; and

(d) Verifying that any computer-generated dose calculations are correctly transferred into the consoles of therapeutic medical devices.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0120
Mobile Nuclear Medicine Service Administrative Requirements

(1) The Agency will only license mobile nuclear medicine services in accordance with OAR 333-116-0300, 333-116-0320, and 333-116-0400 of this Division and OAR 333-102-0130.

(2) Mobile nuclear medicine service licensees shall obtain a letter signed by the management of each client for which services are rendered that authorizes use of licensed radioactive material at the client's address of use. The mobile nuclear medicine service licensee shall retain the letter for three years after the last provision of service.

(3) If a mobile nuclear medicine service provides services that the client also is authorized to provide, the client is responsible for assuring that services are conducted in accordance with the rules in this Division while the mobile nuclear medicine service is under the client's direction.

(4) A mobile nuclear medicine service may not order radioactive material to be delivered directly from the manufacturer or the distributor to the client's address of use unless the client has a radioactive materials license. Radioactive material delivered to the client's address of use shall be received and handled in conformance with the client's license.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0125
Quality Management Program

(1) Each applicant or licensee under this division, as applicable, shall establish and maintain a written quality management program to provide high confidence that radioactive material or radiation from radioactive material will be administered as directed by the authorized user. The quality management program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive (see NOTE below) is prepared for:

(A) Any teletherapy radiation dose;

(B) Any gamma stereotactic radiosurgery radiation dose;

(C) Any brachytherapy radiation dose;

(D) Any administration of quantities greater than 1.11 megabecquerels (30 μCi) of either sodium iodide I-125 or I-131; or

(E) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-125 or I-131;

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That final plans of treatment and related calculations for brachytherapy, teletherapy, and gamma stereotactic radiosurgery are in accordance with the respective written directives;

(d) That each administration is in accordance with the written directive; and

(e) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

NOTE: If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive will be acceptable, provided that the oral revision is documented immediately in the patient's record and a revised written directive is signed by the authorized user within 48 hours of the oral revision.

Also, a written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided that the revision is dated and signed by an authorized user prior to the administration of the radiopharmaceutical dosage, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next teletherapy fractional dose.

If, because of the emergent nature of the patient's condition, a delay in order to provide a written directive would jeopardize the patient's health, an oral directive will be acceptable, provided that the information contained in the oral directive is documented immediately in the patient's record and a written directive is prepared within 24 hours of the oral directive.

(2) The licensee shall:

(a) Develop procedures for and conduct a review of the quality management program including, since the last review, an evaluation of:

(A) A representative sample of patient administrations,

(B) All recordable events, and

(C) All misadministrations to verify compliance with all aspects of the quality management program; these reviews shall be conducted at intervals no greater than 12 months;

(b) Evaluate each of these reviews to determine the effectiveness of the quality management program and, if required, make modifications to meet the objectives of paragraph (a) of this section; and

(c) Retain records of each review, including the evaluations and findings of the review, in an auditable form for three years.

(3) The licensee shall evaluate and respond, within 30 days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for five years or until inspected by the agency, of the relevant facts and what corrective action, if any, was taken.

(4) The licensee shall retain:

(a) Each written directive; and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in OAR 333-116-0125(1)(a), in an auditable form, for five years, or until inspected by the agency, after the date of administration.

(5) The licensee may make modifications to the quality management program to increase the program's efficiency provided the program's effectiveness is not decreased. The licensee shall furnish the modification to the Agency Office within 30 days after the modification has been made.

(6) Each applicant for a new license, as applicable, shall submit to the Agency Office in accordance with OAR 333-102-0295 a quality management program as part of the application for a license and implement the program upon issuance of the license by the agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0140
Suppliers

A licensee may use for medical use only:

(1) Radioactive material manufactured, produced, labeled, prepared, compounded, packaged and distributed in accordance with a license issued pursuant to these Rules or the equivalent Rules of another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission; and

(2) Reagent kits, radiopharmaceuticals, and/or radiobiologics that have been manufactured, labeled, packaged and distributed in accordance with an approval issued by the U.S. Department of Health and Human Services, Food and Drug Administration.

(3) Radiopharmaceuticals compounded from a prescription in accordance with the regulations of the state Board of Pharmacy.

(4) Teletherapy and brachytherapy sources manufactured and distributed in accordance with a license issued pursuant to these regulations, or the equivalent regulations of another Agreement State, a Licensing State, or the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0150
Quality Control of Imaging Equipment

Each licensee shall establish written quality control procedures for all diagnostic equipment used to obtain images from radionuclide studies. As a minimum the quality control procedures and frequencies shall include quality control procedures recommended by equipment manufacturers or procedures which have been approved by the Agency. The licensee shall conduct quality control procedures in accordance with written procedures.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0160
Possession, Use, Calibration and Check of Dose Calibrators

(1) A medical use licensee authorized to administer radiopharmaceuticals shall possess a dose calibrator and use it to measure the amount of activity of radionuclides prior to administration to each patient or human research subject. The licensee shall also develop, implement and maintain written procedures for proper calibration and operation of the dose calibrator.

(2) At a minimum, a licensee shall:

(a) Check each dose calibrator for constancy and proper operation with a dedicated check source at the beginning of each day of use. To satisfy the requirement of this section, the check must be done on a frequently used setting with a sealed source of not less than 1.85 megabecquerels (50 μCi) of any photon-emitting radionuclide with a half-life greater than 90 days. The results of this test must be within ± 10 percent of the sources stated activity. Sources used for the daily constancy test shall be determined by the manufacturer to be within ± 5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology.

(b) Test each dose calibrator for accuracy upon installation and at intervals not to exceed 12 months thereafter by assaying at least two sealed sources containing different photon-emitting radionuclides 1.85 megabecquerels (50 μCi) each, at least one of which has a principal photon energy between 100 keV and 500 keV. All sources used to satisfy the accuracy test shall be determined by the manufacturer to be within ±5 percent of the stated activity and traceable to the National Institute of Standards and Technology or other standards recognized as being equivalent by the National Institute of Standards and Technology;

(c) Test each dose calibrator for linearity upon installation and at intervals not to exceed three months thereafter over the range of use between 1.1 megabecquerels (30 microcuries) and the highest dosage that will be administered; and

(d) Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator.

(3) A licensee shall mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 1.1 megabecquerels (30 microcuries) and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

(4) A licensee shall also perform checks and tests required by 333-116-0160(2) following adjustment or repair of the dose calibrator and prior to use.

(5) A licensee shall retain a record of each check and test required by 333-116-0160(2) until inspection by the Agency. The records required by 333-116-0160(2) shall include:

(a) For constancy, the model and serial number of the dose calibrator, the identity and calibrated activity of the radionuclide contained in the check source, the date of the check, the activity measured, the instrument settings and the initials of the individual who performed the check;

(b) For accuracy, the model and serial number of the dose calibrator, the model and serial number of each source used and the identity of the radionuclide contained in the source and its activity, the date of the test, the results of the test, the instrument settings and the signature of the Radiation Safety Officer;

(c) For linearity, the model and serial number of the dose calibrator, the calculated activities, the measured activities, the date of the test and the signature of the Radiation Safety Officer; and

(d) For geometry dependence, the model and serial number of the dose calibrator, the configuration and calibrated activity of the source measured, the activity of the source, the activity measured and the instrument setting for each volume measured, the date of the test and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0165
Possession, Use Calibration, and Check of Instruments to Measure Dosages of Alpha- or Beta-emitting Radionuclides

(1) For other than unit dosages, a licensee shall possess and use instrumentation to measure the radioactivity of alpha- or beta-emitting radionuclides. A licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha- or beta-emitting radionuclides prior to administration to each patient or human research subject.

(2) A licensee shall develop, implement, and maintain written procedures for use of the instrumentation. At a minimum, a licensee shall:

(a) Perform tests before initial use, and following repair, on each instrument for accuracy, linearity, and geometry dependence, unless it is not appropriate for the use of the instrument; and make adjustments when necessary;

(b) Perform accuracy annually;

(c) Perform linearity tests annually over the range of medical use; and

(d) Check each instrument for constancy and proper operation at the beginning of each day of use.

(3) Accuracy tests shall be performed with source(s) that are traceable to National Institute of Standards and Technology (NIST) or by a supplier who has compared the source to a source that was calibrated by NIST.

(4) A licensee shall retain a record of each check and test required by this section until inspection by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0170
Calibration and Check of Survey Instrument

(1) A licensee shall ensure that the survey instruments used to show compliance with this Division have been calibrated before first use, annually and following repair.

(2) To satisfy the requirements of section (1) of this rule the licensee shall:

(a) Calibrate all required scale readings up to 10 millisieverts (1000 mrem) per hour with a radiation source;

(b) For each scale that shall be calibrated, calibrate two readings separated by at least 50 percent of scale reading; and

(c) Conspicuously note on the instrument the apparent exposure rate from a dedicated check source as determined at the time of calibration, and the date of calibration.

(3) To satisfy the requirements of section (2) of this rule, the licensee shall:

(a) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 10 percent; and

(b) Consider a point as calibrated if the indicated exposure rate differs from the calculated exposure rate by not more than 20 percent if a correction chart or graph is conspicuously attached to the instrument.

(4) A licensee shall check each survey instrument for proper operation with the dedicated check source before each use. The licensee is not required to keep records of these checks.

(5) The licensee shall retain a record of each calibration required in section (1) of this rule until inspection by the Agency. The record shall include:

(a) A description of the calibration procedure; and

(b) A description of the source used and the certified exposure rates from the source and the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration and the date of calibration.

(6) To meet the requirements of sections (1), (2) and (3) of this rule, the licensee may obtain the services of individuals licensed by the Agency, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform calibrations of survey instruments. Records of calibrations which contain information required by section (5) of this rule, shall be maintained by the licensee.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0180
Assay of Radiopharmaceutical Doses

A licensee shall:

(1) Assay, within 30 minutes before medical use, the activity of each radiopharmaceutical dosage that contains more than 370 kilobecquerels (10 μCi) of a alpha-, beta-, or photon-emitting radionuclide;

(2) Assay, before medical use, the activity of each radiopharmaceutical dosage emitting alpha and/or beta radiation as the radiation of principal interest, unless such radiopharmaceutical has been obtained:

(a) In unit dose form, calibrated by the supplier for individual patients; and

(b) From a supplier which participates in a measurement quality assurance program with the National Institute of Standards and Technology, and which is designed to ensure that unit doses have a calibration traceable to a national standard;

(3) For a dosage of a alpha- or beta-emitting radionuclide prepared by the licensee, this determination shall be made by direct measurement or by a combination of measurements and calculations.

(4) A licensee shall not use a dosage if the dosage differs from the prescribed dosage by more than 20 percent, unless authorized in writing by an authorized user.

(5) Retain a record of the assays required by this section until inspection by the Agency. To satisfy this requirement, the record shall contain the:

(a) Generic name, trade name or abbreviation of the radiopharmaceutical, its lot number and expiration dates and the radionuclide;

(b) Patient's name and identification number if one has been assigned;

(c) Prescribed dosage and activity of the dosage at the time of assay or a notation that the total activity is less than 370 kilobecquerels (10 μCi);

(d) Date and time of the assay; and

(e) Date and time of administration; and

(f) Initials of the individual who performed the assay.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0190
Authorization for Calibration and Reference Source

Any person authorized by OAR 333-116-0030 for medical use of radioactive material may receive, possess and use the following radioactive material for check, calibration and reference use:

(1) Sealed sources manufactured and distributed by persons specifically licensed pursuant to OAR 333-102-0290 or equivalent provisions of the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State and that do not exceed 555 MBq (15 mCi) each;

(2) Any radioactive material listed in OAR 333-116-0300, 333-116-0320 or 333-116-0360 with a half-life of 100 days or less in individual amounts not to exceed 555 MBq (15 mCi), except Y-90 sources not to exceed 2.8 GBq (75 mCi);

(3) Any radioactive material listed in 333-116-0300, 333-116-0320 or 333-116-0360 with a half life greater than 100 days in individual amounts not to exceed 7.4 MBq (200 μCi) each; and

(4) Technetium-99m in individual amounts to exceed 1.85 GBq (50 mCi).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0200
Requirements for Possession of Sealed Sources and Brachytherapy Sources

(1) A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer or equivalent instructions approved by the Agency, and shall maintain the instructions for the duration of source use in a legible form convenient to users.

(2) A licensee in possession of a sealed source shall assure that:

(a) The source is tested for leakage before its first use unless the licensee has a certificate from the supplier indicating that the source was tested within six months before transfer to the licensee; and

(b) The source is tested for leakage at intervals not to exceed six months or at intervals approved by the Agency, another Agreement State, a Licensing State or the U.S. Nuclear Regulatory Commission in the Sealed Source and Device Registry (SS&D).

(3) To satisfy the leak test requirements of this Division, the licensee shall assure that:

(a) Leak tests are capable of detecting the presence of 185 Bq (0.005 Ci) of radioactive material on the test sample, or in the case of radium, the escape of radon at the rate of 37 Bq (0.001 μCi) per 24 hours;

(b) Test samples are taken from the source or from the surfaces of the device in which the source is mounted or stored on which radioactive contamination might be expected to accumulate; and

(c) For teletherapy units, test samples are taken when the source is in the "off" position.

(4) A licensee shall retain leak test records until inspected by the Agency. The records shall contain the model number and serial number if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries (Bq), a description of the method used to measure each test sample, the date of the test and the signature of the Radiation Safety Officer.

(5) If the leak test reveals the presence of 185 Bq (0.005 μCi) or more of removable contamination, the licensee shall:

(a) Immediately withdraw the sealed source from use and store it in accordance with the requirements of these Rules; and

(b) File a report within five days of receiving the leakage test results with the Agency describing the equipment involved, the test results and the action taken.

(6) A licensee need not perform a leak test on the following sources:

(a) Sources containing only radioactive material with a half-life of less than 30 days;

(b) Sources containing only radioactive material as a gas;

(c) Sources containing 3.7 MBq (100 μCi) or less of beta or photon-emitting material or 370 kBq (10 μCi) or less of alpha-emitting material;

(d) Seeds of iridium-192 encased in nylon ribbon; and

(e) Sources stored and not being used. The licensee shall, however, test each such source for leakage before any use or transfer unless it has been tested for leakage within six months before the date of use or transfer.

(7) A licensee in possession of a sealed source or brachytherapy source shall conduct a physical inventory of all such sources at intervals not to exceed three months. The licensee shall retain each inventory record until inspected by the Agency. The inventory records must contain the model number of each source and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, date of the inventory and the signature of the Radiation Safety Officer.

(8) A licensee in possession of a sealed source or brachytherapy source shall survey with a radiation survey instrument at intervals not to exceed three months all areas where such sources are stored. This does not apply to teletherapy sources in teletherapy units, gamma stereotactic radiosurgery sources, or sealed sources in diagnostic devices.

(9) A licensee shall retain a record of each survey required in section (8) of this rule until inspection by the Agency. The record must include the date of the survey, a sketch of each area that was surveyed, the measured dose rate at several points in each area expressed in μSv (mrem) per hour, the model number and serial number of the survey instrument used to make the survey and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0250
Surveys for Contamination and Ambient Radiation Dose Rate

(1) A licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

(2) A licensee shall survey with a radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee shall conduct the surveys required by section (1) and (2) of this rule so as to be able to measure dose rates as low as 1 μSv (0.1 mrem) per hour.

(4) A licensee shall establish dose rate action levels for the surveys required by section (1) and (2) of this rule and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds an action level.

(5) A licensee shall survey for removable contamination each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.

(6) A licensee shall conduct the surveys required by section (5) of this rule so as to be able to detect contamination on each wipe sample of 33.3 Bq (2000 dpm).

(7) A licensee shall establish removable contamination action levels for the surveys required by section (5) of this rule and shall require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds action levels.

(8) A licensee shall retain a record of each survey required by this rule until inspection by the Agency. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in μSv mrem per hour or the removable contamination in each area expressed in Bq (dpm) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples and the initials of the individual who performed the survey.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0260
Release of Patients Containing Therapeutic Quantities of Radiopharmaceuticals or Permanent Implants

(1) The licensee may authorize the release from its control of any individual who has been administered radiopharmaceuticals or permanent implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).

(2) The licensee shall provide the released individual with instructions, including written instructions, on actions recommended to maintain

doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

(a) Guidance on the interruption or discontinuation of breast-feeding and

(b) Information on the consequences of failure to follow the guidance.

(3) The licensee shall maintain a record of the basis for authorizing the release of an individual, for 3 years after the date of release, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered,

(b) Using an occupancy factor less than 0.25 at 1 meter,

(c) Using the biological or effective half-life, or

(d) Considering the shielding by tissue.

(4) The licensee shall maintain a record, for 3 years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0265
Release of Individuals Containing Radiopharmaceuticals or Implants

(1) A licensee may authorize the release from its control any individual who has been administered radiopharmaceuticals or implants containing radioactive material if the total effective dose equivalent to any other individual from exposure to the released individual is not calculated to exceed 5 mSv (0.5 rem) Note: U. S. Nuclear Regulatory Commission Regulatory Guide 8.39, "Release of Patients Administered Radioactive Materials", describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 millisieverts (0.5 rem).

(2) A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 mSv (0.1 rem). If the total effective dose equivalent to a breast-feeding infant or child could exceed 1 mSv (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) A licensee shall maintain a record of the basis for authorizing the release of an individual, until inspected by the Agency, if the total effective dose equivalent is calculated by:

(a) Using the retained activity rather than the activity administered,

(b) Using an occupancy factor less than 0.25 at 1 meter,

(c) Using the biological or effective half-life, or

(d) Considering the shielding by tissue.

(4) The licensee shall maintain a record, for 3 years after the date of release, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding 5 millisieverts (0.5 rem).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0290
Decay-In-Storage

(1) A licensee shall hold radioactive material with a physical half-life of less than 65 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of OAR 333-120-0500 of these Rules if the licensee:

(a) Holds radioactive material for decay a minimum of 10 half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates all radiation labels; and

(d) Separates and monitors each generator column individually with all radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with the licensee shall retain a record of section (1) of this rule each disposal until inspection by the Agency. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container and the name of the individual who performed the disposal.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0300
Use of Radiopharmaceuticals for Uptake, Dilution or Excretion Studies

(1) A licensee may use any radioactive material in a radiopharmaceutical and for a diagnostic use involving measurements of uptake, dilution or excretion:

(a) Which the Food and Drug Administration (FDA) has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100.

(2) A licensee using a radiopharmaceutical specified in section (1) of this rule for a clinical procedure other than one specified in the product label or package insert instructions for use shall comply with the product label or package insert instructions regarding physical form, route of administration and dosage range.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0310
Possession of Survey Instrument

A licensee authorized to use radioactive material for uptake, dilution and excretion studies shall have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 Sv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour. The instrument shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0320
Use of Radiopharmaceuticals, Generators and Reagents Kits for Imaging and Localization Studies

(1) A licensee may use any radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for:

(a) Which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100.

(2) A licensee using radiopharmaceuticals specified in section (1) of this rule for clinical procedures other than one specified in the product label or package insert instructions shall comply with the product label or package insert regarding physical form and dosage range.

(3) A licensee shall elute generators in compliance with OAR 333-116-0330 and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentatate as an aerosol for lung function studies is not subject to the restrictions in section (1) of this rule. Provided the conditions of OAR 333-116-0340 are met, a licensee shall use radioactive aerosols or gases only if specific application is made to and approved by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0330
Permissible Molybdenum-99 Concentration

(1) A licensee shall not administer to humans a radiopharmaceutical containing more than 0.15 kBq (0.15 μCi) of molybdenum-99 per MBq (mCi) of technetium-99m.

(2) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators shall measure the molybdenum-99 concentration in each eluate or extract.

(3) A licensee who must measure molybdenum concentration shall retain a record of each measurement until inspection by the Agency. The record shall include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in MBq (mCi), the measured activity of the molybdenum expressed in kBq (μCi), the ratio of the measures expressed as kBq (μCi) of molybdenum per MBq (mCi) of technetium, the date of the test and the initials of the individual who performed the test.

(4) A licensee shall report immediately to the Agency each occurrence of molybdenum-99 concentration exceeding the limits specified in section (1) of this rule.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0340
Control of Aerosols and Gases

(1) A licensee who administers radioactive aerosols or gases shall do so with a system that will keep airborne concentrations within the limits prescribed by OAR 333-120-0130 and 333-120-0180.

(2) The system shall either be directly vented to the atmosphere through an air exhaust or provide for collection and decay or disposal of the aerosol or gas in a shielded container.

(3) A licensee shall only administer radioactive gases in rooms that are at negative pressure compared to surrounding rooms.

(4) Before receiving, using or storing a radioactive gas, the licensee shall calculate the amount of time needed after a release to reduce the concentration in the area of use to the occupational limit listed in 10 CFR Part 20 Appendix B to 20.1001 to 20.2401. The calculation shall be based on the highest activity of gas handled in a single container and the measured available air exhaust rate.

(5) A licensee shall post the time calculated in accordance with 333-116-0340(4) of this rule at the area of use and require that, in case of a gas spill, individuals evacuate the room until the posted time has elapsed.

(6) A licensee shall check the operation of collection systems before each use and measure the ventilation rates in areas of use at intervals not to exceed six months. Records of these checks and measurements shall be maintained for 5 years or until inspected by the Agency.

(7) A copy of the calculations required in 333-116-0340(4) of this rule shall be recorded and retained for the duration of the license.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0350
Possession of Survey Instruments

A licensee authorized to use radioactive material for imaging and localization studies shall have in its possession a portable, radiation detection survey instrument capable of detecting dose rates over the range of 1 μSv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 millisieverts (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0360
Use of Radiopharmaceuticals for Therapy

(1) A licensee may use for therapeutic administration any unsealed byproduct material prepared for medical use that:

(a) Has been granted acceptance or approval by the Food and Drug Administration; and

(b) Has been prepared by an authorized nuclear pharmacist, a physician who is an authorized user on a license from the Agency, other Agreement State, or the U.S. Nuclear Regulatory Commission.

(2) The licensee shall comply with the package insert instructions regarding indications and method of administration.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0370
Safety Instruction

(1) A licensee shall provide oral and written radiation safety instruction for all personnel caring for patients undergoing radiopharmaceutical therapy. Refresher training shall be provided at intervals not to exceed one year.

(2) To satisfy 333-116-0370(1) of this rule, the instruction shall describe the licensee's procedures for:

(a) Patient control;

(b) Visitor control;

(c) Contamination control;

(d) Waste control; and

(e) Notification of the Radiation Safety Officer or authorized user in case of the patient's death or medical emergency.

(3) A licensee shall keep until inspection by the Agency a list of individuals receiving instruction required by 333-116-0370(1) of this rule, a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0380
Safety Precautions

(1) For each patient receiving radiopharmaceutical therapy and hospitalized for compliance with OAR 333-116-0260 or 333-116-0265, a licensee shall:

(a) Provide a private room with a private sanitary facility;

(b) Post the patient's door with a "Caution: Radioactive Material" sign and note on the door or on the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after administration of the dosage, measure the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with the requirements of OAR 333-120-0180 of these Rules and retain until inspection by the Agency a record of each survey that includes the time and date of the survey, a plan of the area or list of points surveyed, the measured dose rate at several points expressed in mrem per hour, the instrument used to make the survey and the initials of the individual who made the survey;

(e) Either monitor material and items removed from the patient's room to determine that any contamination cannot be distinguished from the natural background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle materials and items as radioactive waste;

(f) Instruct the patient and, where appropriate, the patient's family, orally and in writing concerning radiation safety precautions that will help to keep radiation dose to household members and the public as low as reasonably achievable before authorizing release of the patient;

(g) Survey the patient's room and private sanitary facility for removable contamination with a radiation detection survey instrument before assigning another patient to the room. The room must not be reassigned until removable contamination is less than 3.33 Bq (200 dpm) per 100 square centimeters; and

(h) Measure the thyroid burden of each individual who helped prepare or administer a dosage of iodine-131 within three days after administering the dosage and retain for the period required by OAR 333-120-0620 of these Rules a record of each thyroid burden measurement, date of measurement, the name of the individual whose thyroid burden was measured and the initials of the individual who made the measurements. Other procedures acceptable to the Agency may be used for individuals who only prepare, but do not administer, doses of stabilized I-131.

(2) A licensee shall notify the Radiation Safety Officer or the nuclear physician immediately if the patient dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0390
Possession of Survey Instruments

A licensee authorized to use radioactive material for radiopharmaceutical therapy shall have in its possession a portable radiation detection sur-

vey instrument capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0410
Availability of Survey Instrument

A licensee authorized to use radioactive material as a sealed source for diagnostic purposes shall have available for use a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instrument shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0420
Use of Sources for Brachytherapy

A licensee shall use the following sources in accordance with the manufacturer's radiation safety and handling instructions:

(1) Cesium-137 as a sealed source in needles and applicator cells for topical, interstitial and intracavitary treatment of cancer;

(2) Cobalt-60 as a sealed source in needles and applicator cells for topical, interstitial and intracavitary treatment of cancer;

(3) Gold-198 as a sealed source in seeds for interstitial treatment of cancer;

(4) Iodine-125 as a sealed source in seeds for interstitial treatment of cancer;

(5) Iridium-192 as seeds encased in nylon ribbon for interstitial treatment of cancer;

(6) Radium-226 as a sealed source in needles or applicator cells for topical, interstitial and intracavitary treatment of cancer;

(7) Radon-222 as seeds for interstitial, treatment of cancer;

(8) Strontium-90 as a sealed source in an applicator for treatment of superficial eye conditions; and

(9) Palladium-103 as a sealed source in seeds for the interstitial treatment of cancer.

(10) Any medical device or material approved for human use by the US FDA and approved for licensing purposes by the US NRC or an Agreement State.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0430
Safety Instructions

(1) The licensee shall provide oral and written radiation safety instruction to all personnel caring for a patient receiving implant therapy. Refresher training shall be provided at intervals not to exceed one year.

(2) To satisfy section (1) of this rule, the instruction shall describe:

(a) Size and appearance of the brachytherapy sources;

(b) Safe handling and shielding instructions in case of a dislodged source;

(c) Procedures for patient control;

(d) Procedures for visitor control; and

(e) Procedures for notification of the Radiation Safety Officer or authorized user if the patient dies or has a medical emergency.

(3) A licensee shall retain until inspection by the Agency a record of individuals receiving instruction required by 333-116-0430(1) of this rule, a description of the instruction, the date of instruction and the name of the individual who gave the instruction.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0440
Safety Precaution

(1) A licensee shall, for each patient receiving implant therapy:

(a) Not place the patient in the same room with a patient who is not receiving radiation therapy unless the licensee can demonstrate compliance with the requirement of OAR 333-120-0180 of these rules at a distance of one meter from the implant;

(b) Post the patient's door with a "Caution: Radioactive Materials" sign and note on the door or in the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with OAR 333-120-0180 of these Rules, and retain until inspection by the Agency, a record of each survey that includes the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts (mrem) per hour, the instrument used to make the survey and the initials of the individual who made the survey; and

(e) Instruct the patient and, where appropriate, the patient's family, orally and in writing concerning radiation safety precautions that will help to keep the radiation dose to household members and the public as low as reasonably achievable before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall notify the Radiation Safety Officer or authorized user immediately if the patient dies or has a medical emergency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0450
Brachytherapy Sources Inventory

(1) Each time brachytherapy sources are returned to an area of storage from an area of use, the licensee shall immediately count the number returned to ensure that all sources taken from the storage area have been returned.

(2) A licensee shall make a record of brachytherapy source use which includes:

(a) The names of the individuals permitted to handle the sources;

(b) The number and activity of sources removed from storage, the room number of use and patient's name, the time and date they were removed from storage, the number and activity of the sources in storage after the removal and the initials of the individual who removed the sources from storage; and

(c) The number and activity of sources returned to storage, the room number of use and patient's name, the time and date they were returned to storage, the number and activity of sources in storage after the return and the initials of the individual who returned the sources to storage.

(3) Immediately after implanting sources in a patient and immediately after removal of sources from a patient the licensee shall make a radiation survey of the patient and the area of use to confirm that no sources have been misplaced. The licensee shall make a record of each survey.

(4) A licensee shall retain the records required in 333-116-0450(2) and 333-116-0450(3) of this rule until inspection by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0460
Release of Patients Treated with Temporary Implant

(1) Immediately after removing the last temporary implant source from a patient, the licensee shall make a radiation survey of the patient with a radiation detection survey instrument to confirm that all sources have been removed. The licensee shall not release from confinement for medical care a patient treated by temporary implant until all sources have been removed.

(2) A licensee shall retain a record of patient surveys which demonstrate compliance with OAR 333-116-0450(1) until inspection by the Agency. Each record must include the date of the survey, the name of the patient, the dose rate from the patient expressed as μSv (mrem) per hour and measured within one meter from the patient and the initials of the individual who made the survey.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0470
Possession of Survey Instruments

A licensee authorized to use radioactive material for implant therapy shall have in its possession a portable radiation detection survey instrument

capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0480
Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit. A licensee shall use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of § 35.49(a) are met.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0490
Installation, Maintenance, Adjustment, and Repair

(1) Only a person specifically licensed by the Commission or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on the source(s) shielding, the source(s) driving unit, or other electronic or mechanical component that could expose the source(s), reduce the shielding around the source(s), or compromise the radiation safety of the unit or the source(s).

(2) Except for low dose-rate remote afterloader units, only a person specifically licensed by the Commission or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

(3) For a low dose-rate remote afterloader unit, only a person specifically licensed by the Commission or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source(s) contained in the unit.

(4) A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units in accordance with § 35.2605.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0495
Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall:

(a) Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;

(b) Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with the source(s);

(c) Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and

(d) Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place the source(s) in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures must include:

(A) Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;

(B) The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and

(C) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(2) A copy of the procedures required by 333-116-0495(1)(d) of this section must be physically located at the unit console.

(3) A licensee shall post instructions at the unit console to inform the operator of:

(a) The location of the procedures required by 333-116-0495(1)(d) of this section; and

(b) The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.

(4) A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:

(a) The procedures identified in paragraph (a)(4) of this section; and

(b) The operating procedures for the unit.

(5) A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.

(6) A licensee shall retain a record of individuals receiving instruction required by paragraph (d) of this section, in accordance with § 35.2310.

(7) A licensee shall retain a copy of the procedures required by §§ 35.610(a)(4) and (d)(2) in accordance with § 35.2610.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0515
Use of a Sealed Source in a Remote Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

A licensee shall use sealed sources in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units for therapeutic medical uses:

(1) As approved in the Sealed Source and Device Registry; or

(2) In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0525
Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall control access to the treatment room by a door at each entrance.

(2) A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:

(a) Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;

(b) Cause the source(s) to be shielded when an entrance door is opened; and

(c) Prevent the source(s) from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source(s) on-off control is reset at the console.

(3) A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.

(4) Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.

(5) For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.

(6) In addition to the requirements specified in paragraphs (a) through (e) of this section, a licensee shall -

(a) For medium dose-rate and pulsed dose-rate remote afterloader units, require:

(A) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove the source applicator(s) in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.

(b) For high dose-rate remote afterloader units, require:

(A) An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and

(B) An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been

trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

(c) For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit.

(d) Notify the Radiation Safety Officer, or his/her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

(7) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Remaining in the unshielded position; or

(b) Lodged within the patient following completion of the treatment.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0530
Possession of Survey Instrument

A licensee authorized to use radioactive material in a teletherapy therapy unit shall have in its possession either both a portable radiation detection survey instrument capable of detecting dose rates over the range 1 μSv (0.1 mrem) per hour to 100 mrem (one mSv) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 μSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments shall be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0540
Radiation Monitoring Device

(1) A licensee shall have in each teletherapy room a permanent radiation monitor capable of continuously monitoring beam status.

(2) Each radiation monitor shall be capable of providing visible evidence of a teletherapy unit malfunction that results in an exposed or partially exposed source. The visible indicator of high radiation levels must be observable by an individual prior to entering the teletherapy room.

(3) Each radiation monitor shall be equipped with a backup power supply separate from the power supply to the teletherapy unit. This backup power supply may be a battery system or other type of uninterruptible power supply (UPS).

(4) Each radiation monitor must be checked with a dedicated check source for proper operation each day before the teletherapy unit is used for treatment of patients.

(5) A licensee shall maintain a record of the check required by 333-116-0540(4) until inspection by the Agency. The record shall include the date of the check, notation that the monitor indicates when the source is exposed and the initials of the individual who performed the check.

(6) If a radiation monitor is inoperable, the licensee shall require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may result in an exposed or partially exposed source. The instrument or dosimeter shall be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee shall keep a record as described in 333-116-0540(4).

(7) If a radiation monitor is inoperable, the licensee shall require any individual entering the teletherapy room to use a survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism. The instrument or dosimeter shall be checked with a dedicated check source for proper operation at the beginning of each day of use. The licensee shall keep a record as described in 333-116-0540(5).

(8) A licensee shall promptly repair or replace the radiation monitor if it is inoperable.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0560
Dosimetry Equipment

(1) Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.

(a) The system shall have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or

(b) The system shall have been calibrated within the previous four years; 18 to 30 months after that calibration, the system shall have been intercompared at an intercomparison meeting with another dosimetry system that was calibrated within the past 24 months by the National Institute of Standards and Technology or by a calibration laboratory accredited by the AAPM. The intercomparison meeting shall be sanctioned by a calibration laboratory or radiologic physics center accredited by the AAPM. The results of the intercomparison meeting must show that the calibration factor of the licensee's system had not changed by more than two percent. The licensee shall not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.

(2) The licensee shall have available for use a dosimetry system for spot-check output measurements, if applicable. To meet this requirement, the system may be compared with a system that has been calibrated in accordance with 333-116-0560(1) of this rule. This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in section 333-116-0560(1) of this rule.

(3) The licensee shall retain a record of each calibration, intercomparison and comparison for the duration of the license. For each calibration, intercomparison or comparison, the record shall include the date, the model numbers and serial numbers of the instruments that were calibrated, intercompared or compared as required by 333-116-0560(1) and 333-116-0560(2), the correction factors that were deduced, the names and credentials of the individuals who performed the calibration, intercomparison or comparison, and evidence that the intercomparison meeting was sanctioned by a calibration laboratory or radiologic physics center accredited by AAPM.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0570
Full Calibration Measurement

(1) A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:

(a) Before the first medical use of the unit; and

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than five percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the radioactive source or following reinstallation of the teletherapy unit in a new location;

(C) Following any repair of the teletherapy unit that includes removal of the radioactive source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding one year.

(2) To satisfy the requirement of 333-116-0570(1), full calibration measurements shall include determination of:

(a) The output within ± 3 percent for the range of field sizes and for the distance or range of distances used for medical use;

(b) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(c) The uniformity of the radiation field and its dependence on the orientation of the useful beam;

(d) Timer accuracy, constancy, and linearity;

(e) On-off error; and

(f) The accuracy of all distance measuring and localization devices in medical use.

(3) A licensee shall use the dosimetry system described in OAR 333-116-0560(1) to measure the output for one set of exposure conditions. The remaining radiation measurements required in 333-116-0570(2)(a) may then be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by 333-116-0570(1) in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall correct mathematically the outputs determined in 333-116-0570(2)(a) for physical decay for intervals not exceeding one

month for cobalt-60 and intervals not exceeding six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.

(6) Full calibration measurements required by 333-116-0570(1) and physical decay corrections required by 333-116-0570(5) shall be performed by a teletherapy or medical physicist certified to perform such measurements and named on the licensee's license or authorized by a license issued by the Nuclear Regulatory Commission or an Agreement State to perform such services.

(7) A licensee shall retain a record of each calibration for the duration of the license. The record shall include the date of the calibration, the manufacturer's name, model number, and serial number for both the teletherapy unit and the source, the model numbers and serial numbers of the instruments used to calibrate the teletherapy unit, tables that describe the output of the unit over the range of field sizes and for the range of distances used in radiation therapy, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device and the signature of the teletherapy physicist.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0573
Full Calibration Measurements on Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and

(B) Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and

(c) At intervals not exceeding 1 quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and

(d) At intervals not exceeding 1 year for low dose-rate remote afterloader units.

(2) To satisfy the requirement of paragraph (a) of this section, full calibration measurements must include, as applicable, determination of:

(a) The output within +/- 5 percent;

(b) Source positioning accuracy to within +/- 1 millimeter;

(c) Source retraction with backup battery upon power failure;

(d) Length of the source transfer tubes;

(e) Timer accuracy and linearity over the typical range of use;

(f) Length of the applicators; and

(g) Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.

(3) A licensee shall use the dosimetry system described in § 35.630(a) to measure the output.

(4) A licensee shall make full calibration measurements required by paragraph (a) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) In addition to the requirements for full calibrations for low dose-rate remote afterloader units in paragraph (b) of this section, a licensee shall perform an autoradiograph of the source(s) to verify inventory and source(s) arrangement at intervals not exceeding 1 quarter.

(6) For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with paragraphs (a) through (e) of this section.

(7) A licensee shall mathematically correct the outputs determined in paragraph (b)(1) of this section for physical decay at intervals consistent with 1 percent physical decay.

(8) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (g) of this section must be performed by the authorized medical physicist.

(9) A licensee shall retain a record of each calibration.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0577
Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:

(a) Before the first medical use of the unit;

(b) Before medical use under the following conditions:

(A) Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;

(B) Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and

(C) Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the sources or major repair of the components associated with the source assembly; and

(c) At intervals not exceeding 1 year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.

(2) To satisfy the requirement of paragraph (a) of this section, full calibration measurements must include determination of:

(a) The output within +/- 3 percent;

(b) Relative helmet factors;

(c) Isocenter coincidence;

(d) Timer accuracy and linearity over the range of use;

(e) On-off error;

(f) Trunnion centricity;

(g) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(h) Helmet microswitches;

(i) Emergency timing circuits; and

(j) Stereotactic frames and localizing devices (trunnions).

(3) A licensee shall use the dosimetry system described in § 35.630(a) to measure the output for one set of exposure conditions. The remaining radiation measurements required in paragraph (b)(1) of this section may be made using a dosimetry system that indicates relative dose rates.

(4) A licensee shall make full calibration measurements required by paragraph (a) of this section in accordance with published protocols accepted by nationally recognized bodies.

(5) A licensee shall mathematically correct the outputs determined in paragraph (b)(1) of this section at intervals not exceeding 1 month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.

(6) Full calibration measurements required by paragraph (a) of this section and physical decay corrections required by paragraph (e) of this section must be performed by the authorized medical physicist.

(7) A licensee shall retain a record of each calibration.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0580
Periodic Spot-Checks

(1) A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit at intervals not to exceed one month.

(2) To satisfy the requirement of 333-116-0580(1), measurements shall include determination of:

(a) Timer constancy, accuracy, and linearity over the range of use;

(b) On-off error;

(c) The coincidence of the radiation field and the field indicated by the light beam localizing device;

(d) The accuracy of all distance measuring and localization devices used for medical use;

(e) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560; and

(f) The difference between the measurement made in 333-116-0580(2)(e) and the anticipated output, expressed as a percentage of the anticipated value obtained at last full calibration corrected mathematically for physical decay.

(3) A licensee shall use the dosimetry system described in OAR 333-116-0560 to make the measurement required in 333-116-0580(2)(e).

(4) A licensee shall perform measurements required by 333-116-0580(1) in accordance with procedures established by the teletherapy or medical physicist. That individual is not required to actually perform the output spot-check measurements.

(5) A licensee shall have the teletherapy or medical physicist review the results of each output spot-check within 15 days of each measurement. The teletherapy or medical physicist shall promptly notify the licensee in writing of the results of each output spot-check. The licensee shall keep a copy of each written notification until inspection by the Agency.

(6) A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility at intervals not to exceed one month;

(7) To satisfy the requirement of 333-116-0580(5), checks shall assure proper operation of:

(a) Electrical interlocks at each teletherapy room entrance;

(b) Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism;

(c) Beam condition indicator lights on the teletherapy unit, on the control console and in the facility;

(d) Viewing systems;

(e) Treatment room doors from inside and outside the treatment room; and

(f) Electrically assisted treatment room doors with the teletherapy unit electrical power turned "off".

(8) A licensee shall lock the control console in the "off" position if any door interlock malfunctions. No licensee shall use the unit until the interlock system is repaired unless specifically authorized by the Agency.

(9) A licensee shall promptly repair any system identified in 333-116-0580(7) that is not operating properly.

(10) A licensee shall retain a record of each spot-check required by 333-116-0580(1) and 333-116-0580(6) until inspection by the Agency. The record shall include, the date of the spot-check, the manufacturer's name, model number and serial number for both the teletherapy unit and source, the manufacturer's name, model number and serial number of the instrument used to measure the output of the teletherapy unit, the measured timer accuracy, the calculated on-off error, a determination of the coincidence of the radiation field and the field indicated by the light beam localizing device, the measured timer accuracy for a typical treatment time, the calculated on-off error, the estimated accuracy of each distance measuring or localization device, the difference between the anticipated output and the measured output, notations indicating the operability of each entrance door electrical interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the individual who performed the periodic spot-check.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0583
Periodic Spot-checks for Remote Afterloader Units

(1) A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:

(a) Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;

(b) Before each patient treatment with a low dose-rate remote afterloader unit; and

(c) After each source installation.

(2) A licensee shall perform the measurements required by paragraph (a) of this section in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(3) A licensee shall have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(4) To satisfy the requirements of paragraph (a) of this section, spot-checks must, at a minimum, assure proper operation of:

(a) Electrical interlocks at each remote afterloader unit room entrance;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;

(d) Emergency response equipment;

(e) Radiation monitors used to indicate the source position;

(f) Timer accuracy;

(g) Clock (date and time) in the unit's computer; and

(h) Decayed source(s) activity in the unit's computer.

(5) If the results of the checks required in paragraph (d) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(6) A licensee shall retain a record of each check required by paragraph (d) and a copy of the procedures required by paragraph (b) of this section.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0585
Additional Technical Requirements for Mobile Remote Afterloader Units

(1) A licensee providing mobile remote afterloader service shall:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by § 35.643, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of (a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in paragraph (b), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in paragraph (b) of this section indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee shall retain a record of each check required by paragraph (b) of this section in accordance with 333-116-0620.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0587
Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

(1) A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:

(a) Monthly;

(b) Before the first use of the unit on a given day; and

(c) After each source installation.

(2) A licensee shall:

(a) Perform the measurements required by 333-116-0587(1) in accordance with written procedures established by the authorized medical physicist. That individual need not actually perform the spot check measurements.

(b) Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.

(3) To satisfy the requirements of 333-116-0587(1)(a), spot-checks must, at a minimum:

(a) Assure proper operation of:

(A) Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;

(B) Helmet microswitches;

(C) Emergency timing circuits; and

(D) Stereotactic frames and localizing devices (trunnions).

(b) Determine:

(A) The output for one typical set of operating conditions measured with the dosimetry system described in 333-116-0560;

(B) The difference between the measurement made in 333-116-0587(3)(b)(A) and the anticipated output, expressed as a percentage of the anticipated output (i.e., the value obtained at last full calibration corrected mathematically for physical decay);

(C) Source output against computer calculation;

(D) Timer accuracy and linearity over the range of use;

(E) On-off error; and

(F) Trunnion centricity.

(4) To satisfy the requirements of 333-116-0587(1)(b) and 333-116-0587(1)(c), spot-checks must assure proper operation of:

(a) Electrical interlocks at each gamma stereotactic radiosurgery room entrance;

(b) Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Timer termination;

(e) Radiation monitors used to indicate room exposures; and

(f) Emergency off buttons.

(5) A licensee shall arrange for the repair of any system identified in 333-116-0587(3) that is not operating properly as soon as possible.

(6) If the results of the checks required in 333-116-0587(4) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(7) A licensee shall retain a record of each check required by 333-116-0587(3) and 333-116-0587(4) and a copy of the procedures required by 333-116-0587(2) of this section.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0590

Radiation Surveys for Teletherapy Facilities

(1) Before medical use, after each installation of a teletherapy source and after making any change for which an amendment is required by OAR 333-116-0500, the licensee shall perform radiation surveys with an operable radiation measurement survey instrument calibrated in accordance with OAR 333-116-0170 to verify that:

(a) The maximum and average radiation levels at one meter from the teletherapy source with the source in the off position and the collimators set for a normal treatment field do not exceed 100 μSv (10 mrem) per hour and 20 μSv (2 mrem) per hour, respectively; and

(b) With the teletherapy source in the on position with the largest clinically available treatment field and with a scattering phantom in the primary beam of radiation, that:

(A) Radiation levels in restricted areas are not likely to cause personnel exposures in excess of the limits specified in OAR 333-120-0100 of these rules; and

(B) Radiation levels in unrestricted areas do not exceed the limits specified in OAR 333-120-0180 of these rules.

(2) If the results of the surveys required in section (1) of this rule indicate any radiation levels in excess of the respective limit specified in that paragraph, the licensee shall lock the control in the off position and not use the unit:

(a) Except as may be necessary to repair, replace or test the teletherapy unit, the teletherapy unit shielding or the treatment room shielding; or

(b) Until the licensee has received a specific exemption from the Agency.

(3) A licensee shall retain a record of the radiation measurements made following installation of a source for the duration of the license. The record shall include the date of the measurements, the reason the survey is required, the manufacturer's name, model number and serial number of the teletherapy unit, the source and the instrument used to measure radiation levels, each dose rate measured around the teletherapy source while in the off position and the average of all measurements, a plan of the areas surrounding the treatment room that were surveyed, the measured dose rate at several points in each area expressed in mrem (μSv) per hour, the calculated maximum level of radiation over a period of one week for each restricted and unrestricted area and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0600

Safety Checks and Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

(1) A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed 5 years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(2) This inspection and servicing may only be performed by persons specifically licensed to do so by the Nuclear Regulatory Commission or an Agreement State.

(3) If the results of the checks required in section (1) of this rule indicate the malfunction of any system, the licensee shall lock the control console in the "off" position and not use the unit except as may be necessary to repair, replace or check the malfunctioning system.

(4) A licensee shall retain until inspection by the Agency a record of the facility checks following installation of a source. The record shall include notations indicating the operability of each entrance door interlock, each electrical or mechanical stop, each beam condition indicator light, the viewing system and doors and the signature of the Radiation Safety Officer.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0605

Therapy-Related Computer Systems

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing must include, as applicable, verification of:

(1) The source-specific input parameters required by the dose calculation algorithm;

(2) The accuracy of dose, dwell time, and treatment time calculations at representative points;

(3) The accuracy of isodose plots and graphic displays;

(4) The accuracy of the software used to determine sealed source positions from radiographic images; and

(5) The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0610

Modification of Teletherapy Unit or Room Before Beginning a Treatment Program

(1) If the survey required by 333-116-0590 indicates that any individual member of the public is likely to receive a dose in excess of the limits specified in 333-120-0180, the licensee shall, before beginning the treatment program:

(a) Either equip the unit with stops or add additional radiation shielding to ensure compliance with 333-120-0180.

(b) Perform the survey required by 333-116-0590 again; and

(c) Include in the report required by 333-116-0620 the results of the initial survey, a description of the modification made to comply with 333-116-0610(1)(a), and the results of the second survey.

(2) As an alternative to the requirements set out in 333-116-0610(a), a licensee may request a license amendment under 333-120-0180(3) that authorizes radiation levels in unrestricted areas greater than those permitted by 333-120-0180(1) of this chapter. A licensee may not begin the treatment program until the license amendment has been issued.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0640

Radiation Safety Officer

Except as provided in OAR 333-116-0650, an individual fulfilling the responsibilities of the Radiation Safety Officer as provided in this rule shall:

(1) Be certified by:

(a) American Board of Health Physics in Comprehensive Health Physics; or

(b) American Board of Radiology; or

(c) American Board of Nuclear Medicine; or

(d) American Board of Science in Nuclear Medicine; or

(e) Board of Pharmaceutical Specialties in Nuclear Pharmacy or Science; or

(f) American Board of Medical Physics in radiation oncology physics; or

(g) Royal College of Physicians and Surgeons of Canada in nuclear medicine; or

(h) American Osteopathic Board of Radiology; or

(i) American Osteopathic Board of Nuclear Medicine; or

(2) Has completed 200 hours of classroom and laboratory training as follows:

(a) Radiation physics and instrumentation;

(b) Radiation protection;

(c) Mathematics pertaining to the use and measurement of radioactivity;

(d) Radiation biology;

(e) Radiopharmaceutical chemistry; and

(f) One year of full time experience in radiation safety at a medical institution under the supervision of the individual identified as the Radiation Safety Officer on an Agency, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(3) Be an authorized user for those radioactive material uses that come within the Radiation Safety Officer's responsibilities.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0660
Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740 and 333-116-0750, the licensee shall require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology; or

(c) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(d) Nuclear Medicine by the American Osteopathic Board of Nuclear Medicine; or

(e) Nuclear Medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 40 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals and 20 hours of supervised clinical experience:

(a) To satisfy the basic instruction requirement, 40 hours of classroom and laboratory instruction shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiation biology; and

(E) Radiopharmaceutical chemistry.

(b) To satisfy the requirement for 20 hours of supervised clinical experience, training must be under the supervision of an authorized user at a medical institution and shall include:

(A) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations or contraindications;

(B) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(C) Administering dosages to patients and using syringe radiation shields;

(D) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(E) Patient followup; or

(3) Has successfully completed a six month training program in nuclear medicine as part of a training program that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience and supervised clinical experience in all the topics identified in OAR 333-116-0660(2).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0670
Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740 or 333-116-0750, the licensee shall require the authorized user of a radiopharmaceutical, generator or reagent kit specified in OAR 333-116-0320 to be a physician who:

(1) Is certified in:

(a) Nuclear medicine by the American Board of Nuclear Medicine; or

(b) Diagnostic radiology by the American Board of Radiology;or

(c) Diagnostic radiology or radiology within the previous five years by the American Osteopathic Board of Radiology; or

(d) Nuclear Medicine by the American Osteopathic Board of Nuclear Medicine; or

(e) Nuclear Medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 200 hours of instruction in basic radioisotope handling techniques applicable to the use of prepared radiopharmaceuticals, generators and reagent kits, 500 hours of supervised work experience and 500 hours of supervised clinical experience:

(a) To satisfy the basic instruction requirement, 200 hours of classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Radiopharmaceutical chemistry; and

(E) Radiation biology.

(b) To satisfy the requirement for 500 hours of supervised work experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Ordering, receiving and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating dose calibrators and diagnostic instruments and performing checks for proper operation of survey meters;

(C) Calculating and safely preparing patient dosages;

(D) Using administrative controls to prevent the misadministration of radioactive material;

(E) Using emergency procedures to contain spilled radioactive material safely and using proper decontamination procedures; and

(F) Eluting technetium-99m from generator systems, assaying and testing the eluate for molybdenum-99 and alumina contamination and processing the eluate with reagent kits to prepare technetium-99m labeled radiopharmaceuticals.

(c) To satisfy the requirement for 500 hours of supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Examining patients and reviewing their case histories to determine their suitability for radioisotope diagnosis, limitations or contraindications;

(B) Selecting the suitable radiopharmaceuticals and calculating and measuring the dosages;

(C) Administering dosages to patients and using syringe radiation shields;

(D) Collaborating with the authorized user in the interpretation of radioisotope test results; and

(E) Patient followup; or

(3) Has successfully completed a six month training program in nuclear medicine that has been approved by the Accreditation Council for Graduate Medical Education and that included classroom and laboratory training, work experience and supervised clinical experience in all the topics identified in OAR 333-116-0670(2).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0680
Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in OAR 333-116-0740, the licensee shall require the authorized user of a radiopharmaceutical listed in OAR 333-116-0360 for therapy to be a physician who:

(1) Is certified by:

(a) The American Board of Nuclear Medicine; or

(b) The American Board of Radiology in radiology or therapeutic radiology, or radiation oncology; or

(c) The American Osteopathic Board of Radiology after 1984; or

(d) Nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or

(2) Has completed 80 hours of instruction in basic radioisotope handling techniques applicable to the use of therapeutic radiopharmaceuticals and has had supervised clinical experience:

(a) To satisfy the requirement for instruction, 80 hours of classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology;

(b) To satisfy the requirement for supervised clinical experience, training shall be under the supervision of an authorized user at a medical institution and shall include:

(A) Use of iodine-131 for diagnosis of thyroid function and the treatment of hyperthyroidism or cardiac dysfunction in ten individuals;

(B) Use of soluble phosphorus-32 for the treatment of ascites polycythemia vera, leukemia or bone metastases in three individuals;

(C) Use of iodine-131 for treatment of thyroid carcinoma in three individuals; and

(D) Use of colloidal chromic phosphorus-32 or of colloidal gold-198 for intracavitary treatment of malignant effusions in three individuals.

(E) Use of phosphorus-32, strontium-89, or samarium-153 for treatment of pain associated with bone metastasises in three individuals.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0720
Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

Except as provided in OAR 333-116-0740, the licensee shall require the authorized user of a sealed source specified in OAR 333-116-0480 in a remote afterloader unit, teletherapy unit or gamma stereotactic radiosurgery unit to be a physician who:

(1) Is certified in:

(a) Radiology, radiation oncology or therapeutic radiology by the American Board of Radiology; or

(b) Radiation oncology by the American Osteopathic Board of Radiology; or

(c) Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or

(d) Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or

(2) Is in the active practice of therapeutic radiology and has completed 200 hours of instruction in basic radioisotope techniques applicable to the use of a sealed source in a teletherapy unit, 500 hours of supervised work experience and a minimum of three years of supervised clinical experience:

(a) To satisfy the requirement for instruction, the classroom and laboratory training shall include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity; and

(D) Radiation biology.

(b) To satisfy the requirement for supervised work experience, training shall be under the supervision of an authorized user at an institution and shall include:

(A) Review of the full calibration measurements and periodic spot checks;

(B) Preparing treatment plans and calculating treatment times;

(C) Using administrative controls to prevent misadministrations;

(D) Implementing emergency procedures to be followed in the event of the abnormal operation of a teletherapy unit or console; and

(E) Checking and using survey meters.

(c) To satisfy the requirement for a period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution. The supervised clinical experience shall include:

(A) Examining individuals and reviewing their case histories to determine their suitability for teletherapy treatment and any limitations or contraindications;

(B) Selecting the proper dose and how it is to be administered;

(C) Calculating the teletherapy doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses as warranted by patients' reaction to radiation; and

(D) Post-administration followup and review of case histories.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0730
Training for Teletherapy or Brachytherapy Physicist

The licensee shall require the teletherapy physicist to:

(1) Be certified by the American Board of Radiology in:

(a) Therapeutic radiological physics; or

(b) Roentgen ray and gamma ray physics; or

(c) X-ray and radium physics; or

(d) Radiological physics; or

(2) Be certified by the American Board of Medical Physics in radiation oncology physics; or

(3) Hold a master's or doctor's degree in physics, biophysics, radiological physics or health physics and have completed one year of full time training in therapeutic radiological physics and also one year of full time work experience under the supervision of a teletherapy or brachytherapy physicist at a medical institution. To meet this requirement, the individual shall have performed the tasks listed in OAR 333-116-0200, 333-116-0570, 333-116-0580 and 333-116-0590 under the supervision of a teletherapy or brachytherapy physicist during the year of work experience.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0830
Accelerator Facility Requirements

(1) Accelerators shall be meet all requirements of division 109 of this Chapter . Shielded-room accelerators shall be equipped with interlocks and personnel control; self-shielded accelerators shall be shielded such that personnel access is prevented during operation.

(2) Non-ionizing radiation shall meet requirements of Division 112 of these rules.

(3) Target maintenance and repair, contamination control, and emergency actions shall be conducted pursuant to division 120 of these rules.

(4) There shall be an Understanding of Transfer (UOT) when isotopes are transferred from one licensee or entity to another for processing, specifying at what point control is transferred to personnel handling radiochemical production or radiopharmacy operation.

(5) Radiation surveys shall be made prior to any accelerator operation or isotope production with a radiation survey instrument calibrated in accordance with requirements in OAR 333-116-0390. Periodic surveys shall be done throughout times of operation to ensure that radiation levels meet all applicable requirements in Division 120 (Radiation Protection Standards).

(6) Ventilation controls shall be implemented to ensure compliance with all applicable local, state, and federal requirements. Controls shall include monitoring of stacks and computer modeling of air emissions to confirm compliance with standards.

(7) Real-time (integrating) monitors shall be used to confirm requirements in OAR 333-120-0100, 333-120-0160, 333-120-0170, and 333-120-0180.

(8) Contamination wipes for radioactive material shall be made pursuant to requirements in OAR 333-116-0250;

(9) Dosimetry must address both gamma and beta doses in all areas of the facility. Licensees and registrants must monitor extremities to ensure compliance with OAR 333-120-0100. Bioassays, as defined in OAR 333-100-0005(16), are not required, but there must be evaluation of internal exposures, pursuant to OAR 333-120-0130, based on calculated releases and monitoring.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.625, 453.665
Hist.: HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-116-0905
Training for Authorized Medical Physicist

The licensee shall require the authorized medical physicist to be an individual who:

(1) Is certified by a speciality board whose certification process includes all of the training and experience requirements in paragraph (2) of this section and whose certification has been approved by the U.S. Nuclear Regulatory Commission; or

(2)(a) Holds a master's or doctor's degree in physics, biophysics, radiological physics, medical physics, or health physics, or an equivalent training program approved by the U.S. Nuclear Regulatory Commission, and has completed one year of full-time training in therapeutic radiological physics and an additional year of full-time practical experience under the supervision of a medical physicist at a medical institution that includes the tasks listed in OAR 333-116-0200, and 333-116-0480 through 333-116-0630 as applicable; and

(b) Has obtained a written certification, signed by a preceptor authorized medical physicist, that the requirements in paragraph (2)(a) in this section have been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently function as an authorized medical physicist; and

(c) Following completion of the requirements in paragraph (2)(a) of this section, has demonstrated sufficient knowledge in radiation safety commensurate with the use requested by passing an examination given by an organization or entity approved by the U.S. Nuclear Regulatory Commission in accordance with appendix A of this Division.

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0910

Training for an Authorized Nuclear Pharmacist

The licensee shall require the authorized nuclear pharmacist to be a pharmacist who:

(1) Is certified as a nuclear pharmacist by a speciality board whose certification process includes all of the requirements in paragraph (2) of this section and whose certification has been approved by the U.S. Nuclear Regulatory Commission; or

(2)(a) Has completed 700 hours in a structured educational program consisting of both:

(A) Didactic training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of radioactive material for medical use; and

(v) Radiation biology; and

(B) Supervised practical experience in a nuclear pharmacy involving:

(i) Shipping, receiving, and performing related radiation surveys;

(ii) Using and performing checks for proper operation of dose calibrators, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;

(iii) Calculating, assaying, and safely preparing dosages for patients or human research subjects;

(iv) Using administrative controls to avoid misadministration s in the administration of radioactive material; and

(v) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and

(b) Has obtained written certification, signed by a preceptor authorized nuclear pharmacist, that the requirements of paragraph (2)(a) have been satisfactorily completed and that the individual has achieved a level of competency sufficient to independently operate a nuclear pharmacy.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-116-0915

Training for Experienced Nuclear Pharmacists

A licensee may apply for and shall receive a license amendment identifying an experienced nuclear pharmacist before it allows this individual to work as an authorized nuclear pharmacist. A pharmacist who has completed a structured educational program as specified in OAR 333-116-0910(2)(a) before December 2, 1994, and who is working in a nuclear pharmacy would qualify as an experienced nuclear pharmacist. An experienced nuclear pharmacist need not comply with the requirements on preceptor statement in 333-116-0910(2)(b) and recentness of training in 333-116-0760 to qualify as an authorized nuclear pharmacist.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.625, ORS 453.635 & ORS 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-118-0020

Definitions

As used in this Division, the following definitions apply:

(1) "Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

(2) "Closed transport vehicle" means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the "see-through" type.

(3) "Exclusive use" means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

NOTE: The term "exclusive use" is used interchangeably with the terms "sole use" or "full load" in other regulations, such as Title 49 of the Code of Federal Regulations.

(4) "Fissile material" means any special nuclear material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235, or any combination of these radionuclides. Unirradiated natural uranium and depleted uranium, and natural uranium or depleted uranium that has been irradiated in thermal reactors only, are not included in this definition. Neither natural nor depleted uranium is fissile material.

NOTE: Agency jurisdiction is limited to special nuclear material in quantities not sufficient to form a critical mass as defined in division 100 of these rules.

(5) "Fissile material package" means a fissile material packaging together with its fissile material contents.

(6) "Low specific activity (LSA) material" means radioactive material that satisfies the descriptions and limits set forth below. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(a) LSA-I.

(A) Ores containing only naturally occurring radionuclides (e.g., uranium, thorium) and uranium or thorium concentrates of such ores; or

(B) Solid unirradiated natural uranium, depleted uranium, natural thorium, or their solid or liquid compounds or mixtures; or

(C) Radioactive material, other than fissile material, for which the A2 value is unlimited; or

(D) Mill tailings, contaminated earth, concrete, rubble, other bulk debris, and activated material in which the radioactive material is essentially uniformly distributed, and the average specific activity does not exceed 10^{-6} A_2/g.

(b) LSA-II.

(A) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(B) Material in which the radioactive material is distributed throughout, and the average specific activity does not exceed 10^{-4} A_2/g for solids and gases, and 10^{-5} A_2/g for liquids.

(c) LSA-III. Solids (e.g., consolidated wastes, activated materials) in which:

(A) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.); and

(B) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, would not exceed 1E-1 A2; and

(C) The average specific activity of the solid does not exceed 2E-3 A2 per gram.

(7) "Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates; or alpha emitters with a half-life of less than 10 days.

(8) "Normal form radioactive material" means radioactive material which has not been demonstrated to qualify as special form radioactive material.

(9)"Nuclear waste" means a quantity of source, byproduct or special nuclear material required to be in U.S. Nuclear Regulatory Commission

approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

NOTE: The definition of nuclear waste in this Part is used in the same way as in 49 CFR 173.403.

(10) "Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 49 CFR Part 173 Subpart I. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

(11) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(12) "Regulations of the U.S. Nuclear Regulatory Commission" means the regulations in 10 CFR 71.

(13) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch.); and

(c) It satisfies the test requirements specified by the Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31, 1996, and constructed prior to April 1, 1998, may continue to be used. A special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(14) "Specific activity" of a radionuclide means the radioactivity of a radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(15) "Surface contaminated object" (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. SCO must be in one of two groups with surface activity not exceeding the following limits:

(a) SCO-I: a solid object on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 Bq/cm^2 (10^{-4} microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm^2 (10^{-5} microcurie/cm^2) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed $4x10^4$ Bq/cm^2 (1.0 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or $4x10^3$ Bq/cm2 (0.1 microcurie/cm2) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed $4x10^4$ Bq/cm^2 (1 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or $4x10^3$ Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters.

(b) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(A) The non-fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 400 bequerel per square centimeter (Bq/cm^2) (1E-2 microcurie per square centimeter) for beta, gamma and low toxicity alpha emitters or 40 bequerel per square centimeter (Bq/cm^2) (1E-3 microcurie per square centimeter) for all other alpha emitters;

(B) The fixed contamination on the accessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm^2) (20 microcuries square centimeter) for beta, gamma and low toxicity alpha emitters, or 8E4 bequerel per square centimeter (Bq/cm^2) (2 microcuries per square centimeter) for all other alpha emitters; and

(C) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 square centimeters (or the area of the surface if less than 300 square centimeters) does not exceed 8E5 bequerel per square centimeter (Bq/cm^2) (20 microcuries per square centimeter) for beta, gamma and low toxicity alpha emitters, or $8x10^4$ Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters.

(16) "Transport index" means the dimensionless number, rounded up to the first decimal place, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package in millisievert (mSv) per hour multiplied by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter).

(17) "Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in 10 CFR Part 71 Appendix A or may be determined by procedures described in 10 CFR Part 71 Appendix A.

(18) "Type A package" means a packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding under normal conditions of transport as demonstrated by the tests set forth in 173.465 or 173.466, as appropriate.

(19) "Type B package" means a Type B packaging together with its radioactive contents.

NOTE: A type B package design is designated as B(U) or B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in OAR 333-118-0035.

(20) "Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR Part 71.

(21) "Type B quantity" means a quantity of radioactive material greater than Type A quantity.

NOTE: 10 CFR Part 71 Appendix A referred to or incorporated by reference in this rule is attached to this Division or available from the Health Division.

(22) "Uranium - natural, depleted, enriched"

(a) "Natural uranium" means uranium isotopes with the naturally occurring distribution of uranium, isotopes (which is approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

(b) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(c) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

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

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0040

Exemptions

(1) Common and contract carriers, freight forwarders, and warehouse workers that are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the U.S. Postal Service Manual Domestic Mail Manual, (DMM), section C-023.9.0 are exempt from the rules in divisions 102, 105, 113, 115, 116, 117, and 121 of this chapter and the requirements for a license to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to OAR 333-118-0030 and other applicable requirements of these rules.

(2) Any licensee is exempt from the requirements of this Division to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than (0.002 microcurie per gram 70 Becquerels per gram (Bq/g).

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0050

Transportation of Licensed Material

(1) Each licensee who transports licensed material outside the site of usage, as specified in the Agency license, or where transport is on public highways, or who delivers licensed material to a carrier for transport shall:

(a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation in 49 CFR 170-189, particularly the regulations of U.S. Department of transportation in the following areas:

(A) Packaging — 49 CFR Part 173: Subparts A and B and I.

(B) Marking and labeling — 49 CFR Part 172: Subpart D, §§ 172.400 through 172.407, §§ 172.436 through 172.440, and Subpart E.

(C) Placarding — 49 CFR Part 172: Subpart F, especially §§ 172.500 through 172.519, 172.556, and Appendices B and C.

(D) Accident reporting — 49 CFR Part 171: §§ 171.15 and 171.16.

(E) Shipping papers and emergency information — 49 CFR Part 172: Subparts C and G.

(F) Hazardous material employee training — 49 CFR Part 172: Subpart H.

(H) Hazardous material shipper/carrier registration — 49 CFR Part 107: Subpart G.

(b) The licensee also shall comply with applicable U.S. Department of Transportation regulations pertaining to the following modes of transportation:

(A) Rail — 49 CFR Part 174: Subparts A through D and K.

(B) Air — 49 CFR Part 175.

(C) Vessel — 49 CFR Part 176: Subparts A through F and M.

(D) Public highway — 49 CFR Part 177 and Parts 390 through 397.

(c) Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.

(2) If, for any reason, the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport and to the same extent as if the shipment were subject to the regulations.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0060
General Licenses for Carriers

(1) A general license is hereby issued to any common or contract carrier not exempt under OAR 333-118-0040 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

NOTE: Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the U.S. Department of Transportation or other agencies.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation, insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(3) Persons who transport radioactive material pursuant to the general licenses in 333-118-0060(1) or 333-118-0060(2) are exempt from the requirements of Divisions 111 and 120 of these rules to the extent that they transport radioactive material.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0070
General License: Nuclear Regulatory Commission-Approved Packages

(1) A general license is hereby issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission.

(2) This general license applies only to a licensee who:

(a) Has a copy of the specific license, certificate of compliance, or other approval by the Nuclear Regulatory Commission of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the license, certificate, or other approval by the Nuclear Regulatory Commission, as applicable, and the applicable requirements of division 118;

(c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

(d) Has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(3) The general license in OAR 333-118-0070(1) applies only when the package approval authorizes use of the package under this general license.

(4) For previously approved Type B packages which are not designated as either B(U) or B(M) in the Certificate of Compliance, this general license is subject to additional restrictions in OAR 333-118-0080. For a Type B or fissile material package, the design of which was approved by Nuclear Regulatory Commission before April 1, 1996, the general license is subject to additional restrictions of OAR 333-118-0080.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0080
General License: Previously Approved Packages

(1) A Type B package previously approved by the U.S. Nuclear Regulatory Commission, but not designated as B(U) or B(M) in the Certificate of Compliance, may be used under the general license of OAR 333-118-0070 with the following additional limitations:

(a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. Nuclear Regulatory Commission regulations at 10 CFR 71.85(c); and

(b) The package may not be used for a shipment to a location outside the United States except when approved under special arrangement in accordance with 49 CFR 173.471. A package used for a shipment to a location outside the United States is subject to multilateral approval, as defined in U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

(2) A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the Nuclear Regulatory Commission but without the designation "-85" in the identification number of the Nuclear Regulatory Commission certificate of compliance, may be used under the general license of 333-118-0070 with the following additional conditions:

(a) Fabrication of the package is satisfactorily completed by April 1, 1999, as demonstrated by application of its model number in accordance with Nuclear Regulatory Commission regulations at 10 CFR 71.85(c);

(b) A package used for a shipment to a location outside the United States is subject to multilateral approval except approved under special arrangement in accordance with U.S. Department of Transportation regulations at 49 CFR 173.403; and

(c) A serial number that uniquely identifies each packaging which conforms to the approved design is assigned to, and legibly and durably marked on, the outside of each packaging.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0090
General License: U.S. Department of Transportation Specification Container

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a specification container containing a fissile material or a Type B quantity of radioactive material as specified in 49 CFR Parts 173 and 178.

(2) This general license applies only to a licensee who has a quality assurance program required by OAR 333-118-0200 and approved by the Agency.

(a) Has a copy of the specification;

(b) Complies with the terms and conditions of the specification and the applicable requirements of division 118; and

(c) Has a quality assurance program required by OAR 333-118-0200.

(3) The general license. in OAR 333-118-0090 is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States except by multilateral approval as defined in 49 CFR 173.403

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0100
General License: Use of Foreign Approved Package

(1) A general license is issued to any licensee of the Agency to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent

authority certificate which has been revalidated by the U.S. Department of Transportation as meeting the applicable requirements of 49 CFR 171.12.

(2) This general license applies only to international shipments.

(3) This general license applies only to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Division.

(c) Has a quality assurance program approved by the Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0110
General License: Fissile Material, Limited Quantity per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with division 333-0118.

(2) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(a) Up to 40 grams of uranium-235; or

(b) Up to 30 grams of uranium-233; or

(c) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A1 quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in 333-118-0110(2)(a), 333-118-0110(2)(b), and 333-118-0110(2)(c) does not exceed unity.

(3) Except as specified in 333-118-0110(3)(b), this general license applies only when all of the following requirements are met:

(a) A package containing fissile radionuclides is labeled with a transport index not less than the number given by the following equation:

Minimum Transport Index =
(0.25x + 0.33y + 0.4z)
where the package contains x grams of uranium-235, y grams of uranium-233, and z grams of the fissile radionuclides of plutonium;

(b) For a package in which the only fissile material is encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.025 times the number of grams of the fissile radionuclides of plutonium.

(c) In all cases, the transport index must be rounded up to one decimal place and shall not exceed 10.0.

(d) Except for the beryllium contained within the special form plutonium-beryllium sources authorized in 333-118-0110(2), beryllium, graphite, or hydrogenous material enriched in deuterium is not present in quantities exceeding 0.1% of the fissile material mass.

(e) The licensee has a quality assurance program approved by the nuclear regulatory commission.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0120
General License: Fissile Material, Limited Moderator per Package

(1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package in accordance with Division 333-118.

(2) This general license applies only when all of the following requirements are met.

(a) The package contains no more than a Type A quantity of radioactive material.

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present.

(c) The total mass of graphite present does not exceed 7.7 times the total mass of uranium-235 plus plutonium.

(d) Substances having higher hydrogen density than water, for example certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping.

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one percent of the amount of uranium-235.

(f) The amount of uranium-235 is limited as follows:

(A) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following Table 1.

(B) If the fissile radionuclides are distributed uniformly, for example, they cannot form a lattice arrangement within the packaging, and the maximum amount of uranium-235 per package may not exceed the value given in Table 2.

(g) The transport index of each package based on criticality considerations is taken as 10 times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table 1 or 2 of this section as applicable. [Tables not included. See ED. NOTE.]

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

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0130
Fissile Material: Assumptions as to Unknown Properties of Fissile Material

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0140
Preliminary Determinations

Prior to the first use of any packaging for the shipment of radioactive material:

(1) The licensee shall show that there are no defects that could significantly reduce the effectiveness of the packaging;

(2) Where the maximum normal operating pressure will exceed 35 kilopascals (five pounds per square inch (psi)) gauge, the licensee shall test the containment system at an internal pressure at least 50 percent higher than the maximum normal operating pressure to show that the system will maintain its structural integrity at that pressure;

(3) The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission; and

(4) The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the U.S. Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.605 - ORS 453.755
Stats. Implemented:
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0150
Routine Determinations

Prior to each shipment of licensed material, the licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except superficial defects such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) Any pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;

(8) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable.

(a) The level of non-fixed (removable) radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the removable contamination levels. Except as provided in

OAR 333-118-0150(8)(b), the amount of radioactivity measured on any single wiping material, when averaged over the surface wiped, must not exceed the limits given in Table 3 below at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the removable contamination on the external surfaces of the package exceed 10 times the limits listed in Table 3.

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination at any time during transport must not exceed 10 times the levels prescribed in OAR 333-118-0150(8)(a). The levels at the beginning of transport must not exceed the levels in OAR 333-118-0150(8)(a);

(9) External radiation levels around the package and around the vehicle, if applicable, will not exceed 2 mSv/hr (200 millirem per hour) at any point on the external surface of the package at any time during the transportation. The transport index shall not exceed 10; [Table not included. See ED. NOTE.]

(10) For a package transported in exclusive use by rail, highway, or water, radiation levels external to the package may exceed the limits specified in OAR 333-118-0150(10) but shall not exceed any of the following:

(a) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 milliSieverts per hour (mSv/h) (1000 millirem per hour);

(A) The shipment is made in a closed transport vehicle,

(B) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(C) There are no loading or unloading operations between the beginning and end of the transportation.

(b) 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier*, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

***NOTE:** A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier, the package cannot exceed 2 milliSieverts per hour (mSv/h) (200 millirem per hour) at the surface.

(c) 0.1 milliSieverts per hour (mSv/h) (10 millirems per hour) at any point two (2) meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point two (2) meters from the vertical planes projected from the outer edges of the vehicle; and

(d) 0.02 milliSieverts per hour (mSv/h) (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with OAR 333-111-0005; and

(11) A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) in a nonexclusive use shipment or 185 degrees Fahrenheit (85 degrees Celsius) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

(12) A package may not incorporate a feature intended to allow continuous venting during transport.

(13) Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee.

NOTE: A flat-bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes. If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirems per hour) at any accessible surface.

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

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0160

Air Transport of Plutonium

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Division or included indirectly by citation of the U.S. Department of Transportation regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 70 Bq/g (0.002 microcuries per gram) of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with OAR 333-118-0050; or

(4) The plutonium is shipped in a package specifically authorized (in the certificate of compliance issued by the Nuclear Regulatory Commission for that package) for the shipment of plutonium by air. and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the U.S. Department of Transportation regulations applicable to the air transport of plutonium.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0170

Shipment Records

Each licensee shall maintain for a period of 3 years after shipment, or until inspected by the Agency, a record of each shipment of licensed material not exempt under OAR 333-118-0040, showing, where applicable:

(1) Identification of the packaging by model and serial number;

(2) Verification that the packaging, as shipped, had no significant defects;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) Date of the shipment;

(6) Name and address of the transferee;

(7) Address to which the shipment was made; and

(8) Results of the determinations required by OAR 333-118-0150.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0180

Reports

The licensee shall report to the Agency within 30 days:

(1) Any instance in which there is significant reduction in the effectiveness of any approved Type B or fissile packaging during use; and

(2) Details of any defects with safety significance in the Type B or fissile packaging after first use, with the means employed to repair the defects and prevent their recurrence; or

(3) Instances in which the conditions of approval in the certificate of compliance were not observed in making a shipment.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0190

Advance Notification of Transport of Nuclear Waste

(1) Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state within or through which the waste will be transported.

NOTE: A list of the mailing addresses of the governors and governors' designees is available upon request from the Director, Office of State, Local, and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(2) Advance notification is required only when:

(a) The nuclear waste is required to be in Type B packaging for transportation;

(b) The nuclear waste is being transported into, within, or through, a state en route to a disposal facility or to a collection point for transport to a disposal facility; and

(c) The quantity of licensed material in a single package exceeds any one of the following:

(A) 3000 times the A_1 value of the radionuclides as specified in Appendix A, Table A-1 for special form radioactive material;

(B) 3000 times the A_2 value of the radionuclides as specified in Appendix A, Table A-1 for normal form radioactive material;

(C) 1000 TBq (27,000 Ci)

(3) Each advance notification required by 333-118-0190(1) shall contain the following information:

(a) The name, address, and telephone number of the shipper, carrier and receiver of the shipment;

(b) A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d);

(c) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur;

(d) The 7-day period during which arrival of the shipment at state boundaries is estimated to occur;

(e) The destination of the shipment, and the 7-day period during which arrival of the shipment is estimated to occur; and

(f) A point of contact with a telephone number for current shipment information.

(4) The notification required by 333-118-0190(1) shall be made in writing to the office of each appropriate governor, or governor's designee, and to the Agency. A notification delivered by mail must be postmarked at least seven days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A notification delivered by the messenger must reach the office of the governor, or governor's designee, at least four (4) days before the beginning of the 7-day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for 3 years or until inspected by the agency.

(5) The licensee shall notify each appropriate governor, or governor's designee, and the Agency of any changes to schedule information provided pursuant to 333-118-0190(1). Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for 3 years a record of the name of the individual contacted.

(6) Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the Agency. A copy of the notice shall be retained by the licensee for 3 years.

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

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0200

Quality Assurance Requirements

(1) Unless otherwise authorized by the agency, each licensee shall establish, maintain, and execute a quality assurance program to verify by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive material are promptly identified and corrected.

(2) The licensee shall identify the material and components to be covered by the quality assurance program.

(3) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used.

(4) Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain approval by the Agency of its quality assurance program.

(5) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a package for shipment of radioactive material shall be maintained for a period of 3 years after shipment or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.755

Stats. Implemented:

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03

333-118-0800

Referenced Materials

(1) This Division of chapter 333 of the Oregon Administrative Rules incorporates by reference material originally published elsewhere. Certified copies of the complete text of incorporated materials referenced are available for public inspection during regular business hours at the Radiation Protection Services Office. Copies of referenced material will be provided at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from Radioactive Materials Program, Radiation Protection Services, 800 NE Oregon Street Suite 260, Portland, Oregon 97232.

(2) Material referenced in this Division does not include amendments to or revised editions of the material published later than the effective date of the relevant section.

Stat. Auth.: ORS Ch. 453.605 - 453.807

Stats. Implemented: ORS 453.625, 453.635, 453.665

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-119-0030

Administrative Responsibilities

(1) The registrant shall be responsible for directing the operation of the tanning facility which has been registered with the Agency. That individual, or individual's agent shall assure that the provisions of these rules are met in the operation of tanning devices.

(2) A tanning device which does not meet the provisions of these rules shall not be operated and may be tagged "Out of Service for Non-compliance with OAR 333-119 Requirements" by Agency inspectors. Devices tagged as non-compliant shall not be operated until written authorization is received by the registrant from the Agency.

(3) The registrant shall assure that the tanning facility will comply with all applicable federal laws and regulations.

(4) In addition to the requirements of this Division, all registrants are subject to the applicable requirements of divisions 100, 103 and 111 of these rules.

(5) The Agency Inspection Findings report and facility response letter(s) shall be conspicuously posted in public view until all items of non-compliance have been corrected and a written Agency release from this requirement is received by the registrant.

(6) The registrant shall post in a conspicuous place the Agency "Notice To The Public".

Stat. Auth.: ORS 431.925 - ORS 431.955

Stats. Implemented: ORS 431.930 & ORS 431.935

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-119-0040

Construction and Operation of Tanning Facilities

Unless otherwise ordered or approved by the Agency, each tanning facility shall be constructed, operated and maintained to meet the following minimum requirements:

(1) Physical facilities:

(a) All tanning facilities shall be equipped with convenient toilet facilities and dressing rooms. Such toilet facilities shall include a water closet and hand-washing sinks. Such toilet and dressing rooms shall be properly maintained, as well as meet all state and local codes.

(b) All areas of the tanning facility shall be ventilated with at least six air changes per hour or as required by local code.

(c) Tanning booth temperature shall be maintained below 100 degrees Fahrenheit (38 degrees Centigrade) during booth operation.

(d) The tanning device shall meet the National Fire Protection Association's National Electrical Code, or be approved by the Underwriter Laboratories (UL) or Electrical Testing Laboratories (ETL).

(e) Except as otherwise noted by the Agency, each tanning facility shall be constructed, operated and maintained in accordance with applicable city, county and state codes.

(2) Cleaning and maintenance:

(a) All areas of the tanning facility, including tanning devices, equipment and apparatus, shall be maintained in a clean and sanitary manner by the facility operator and in accordance with manufacturer's instructions.

(b) The tanning device(s) and protective eyewear shall be cleaned with an approved sanitizer after each use by the facility operator. A listing of approved sanitizers is maintained by the Agency and is available upon request of registrants. This listing may change at any time due to updating of state or federal sanitation guidelines. The operator shall use a sanitizer that sanitizes to a safe level of microorganisms as required by these rules. A clean paper or cloth towel shall be used each time the tanning device is cleaned and sanitized. The sanitizer, as described in these rules, is one specifically manufactured for sanitizing ultraviolet-light-emitting equipment and protective eyewear, and that does not damage the acrylic lamp covers of the device. The Ultraviolet Light produced by the tanning device itself is not considered an adequate sanitizing agent.

(c) Protective eyewear and tanning devices shall be sanitized after each use with a sanitizing agent which is registered by EPA and approved by the Agency using the following procedures:

(A) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with a solution) containing at least 400 ppm (parts per million) of available quaternary ammonium compound at a temperature of at least 75 degrees Fahrenheit; or

(B) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing at least

100 ppm (parts per million) of available chlorine as a hypochlorite and at a temperature of at least 75 degrees Fahrenheit; or

(C) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing at least 25 ppm (parts per million) of available iodine and at a pH of which the efficacy has been demonstrated to be effective by the manufacturer and at temperature of at least 75 degrees Fahrenheit; or

(D) Immerse protective eyewear for at least one minute in a clean solution (or spray tanning device acrylic surfaces and allow at least one to two minutes of surface contact time with the solution) containing any other chemical sanitizing agent registered with the EPA or FDA, and specifically manufactured for use with protective eyewear and/or tanning devices that will provide the equivalent bactericidal effect of a solution containing at least 100 ppm (parts per million) of available chlorine as a hypochlorite at temperature of at least 75 degrees Fahrenheit.

(d) A test kit or other device that accurately measures the concentration of the sanitizing solution in parts per million (ppm) shall be used to measure the strength of the sanitizing solution when the concentrate and water dilution is initially prepared and at least weekly thereafter to ensure sufficient strength of the sanitizing solution. If a suitable test kit is not available for an approved sanitizer, the laboratory analysis data shall be provided by the product manufacturer, and a copy be on file with the Agency. Written procedures at the facility using sanitizer shall include proper mixing and handling instructions to assure proper concentration of the sanitizer.

(e) Clean sanitary towels shall be provided to all patrons using tanning facilities.

(f) A hamper or receptacle must be provided for all soiled towels and linen.

(g) No pets or animals are permitted in tanning facilities other than seeing eye dogs or hearing assistance dogs.

Stat. Auth.: ORS 431.925 - ORS 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-119-0080
Training of Personnel

(1) The registrant shall certify that all tanning device operators are adequately trained in the following:

(a) The requirements of this Division; and

(b) Procedures for correct operation of the tanning facility and tanning devices; and

(c) Recognition of injury or overexposure to Ultraviolet radiation; and

(d) The tanning device manufacturer's procedures for operation and maintenance of the tanning devices; and

(e) The determination of skin type of customers and appropriate determination of duration of exposure to registered tanning devices; and

(f) Emergency procedures to be followed in case of injury; and

(g) Potential photosensitizing foods, cosmetics, and medications.

(2) The registrant shall ensure that tanning devices are operated only while an adequately trained operator is present at the tanning facility.

(3) All currently registered tanning facilities in the State of Oregon must have completed the following staff training requirements within one (1) year of registering with the agency:

(a) At least one owner, manager or operator from each tanning facility with four or less tanning devices, shall successfully complete one of the vendor-provided formal training courses authorized by the Agency.

(b) At least two operators from each tanning facility with five or more tanning devices shall successfully complete one of the vendor provided formal training courses authorized by the Agency.

(c) Training of other full or part-time operators shall be by means of an Agency-authorized and vendor-provided training course, or by materials received by an owner or primary operator from an Agency-authorized and vendor-provided training course, or by an Agency-authorized correspondence course.

(4) Staff training shall be documented by the facility owner or operator and include date and time with subjects covered in the training session for all operators.

Stat. Auth.: ORS 431.925 - ORS 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-119-0090
Protection of Consumers

The registrant shall establish and use a procedure manual that will aid in the protection of the consumer to excessive or unnecessary exposure to Ultraviolet Light. This manual shall include, but not be limited to, the following instructions:

(1) Only one consumer per tanning room at a time, or

(a) When two or more tanning devices are used in the same room, only those consumers using tanning devices should be present in the room, and

(b) In the case of a consumer using a tanning device who may need the aid or assistance from another person, that individual must also be provided with and wear protective eyewear.

(2) No consumer under the age of 18, without written parental consent, shall be allowed to use a tanning device. Written consent must be provided on the premises in the presence of an owner/operator, with the parent's understanding of the potential risks involved in overexposure.

(3) A sign shall be posted in conspicuous view at or near the reception area with the following text: "PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE PARENT OR LEGAL GUARDIAN SIGN AUTHORIZATION TO TAN, IN THE PRESENCE OF A TANNING FACILITY OPERATOR. OAR 333-119-0090(2)."

(4) Each person using a tanning device shall be instructed by the operator on the maximum exposure time and proper exposure distance, as recommended by the manufacturer of the device. The operator shall also instruct the consumer as to the location and proper operation of the tanning device's emergency shut off switch.

(5) Infants and minors are not permitted to be in the tanning device room during exposure by parents or guardians.

(6) Tanning operators shall limit exposure time to the exposure time recommendation provided by the device manufacturer on the tanning device or in the device operating manual. The maximum exposure time recommended by the manufacturer of the device shall not be exceeded in any 24-hour period.

(7) Tanning operators shall keep a list of emergency contact numbers in view at each tanning facility. This list shall include the emergency contact numbers appropriate for the community where the facility is located. Example of emergency contacts:

(a) Nearest hospital;

(b) Nearest fire department;

(c) Emergency medical services or emergency 911 service, if available;

(d) Oregon Radiation Protection Services at (503) 731-4014.

(8) Tanning operators shall maintain a list of the common photosensitizing agents as provided by the Oregon Health Division, FDA, or other appropriate authorities, available for review by consumers.

(9) Tanning facilities are prohibited from controlling the use of tanning devices solely with token timer systems.

Stat. Auth.: ORS 431.925 - ORS 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-119-0100
Equipment

(1) The registrant shall use only tanning devices manufactured in accordance with the specifications set forth in 21 CFR Part 1040, Section 1040.20, "Sunlamp Products and Ultraviolet Lamps Intended for Use in Sunlamp Products."

(2) Each sunlamp product or Ultraviolet Lamp used in these facilities shall not emit measurable Ultraviolet C radiation.

(3) Each Ultraviolet Lamp contained within the sunlamp product shall be shielded so as to not come into contact with the consumer. A transparent acrylic cover shall be used for this purpose.

(4) Tanning booths in which the consumer is in a standing position shall be provided with a handrail for the consumer to hold onto during operation of the booth.

(a) The construction of the booth shall be such that it will have the strength to withstand the stress of use and the impact of a falling person.

(b) Entry to stand-up booths shall be of rigid construction with doors which are non-latching and open outwardly.

(5) Each tanning device shall have, clearly marked, the appropriate position the consumer is to assume prior to operation.

(6) Each tanning device shall prominently display the following label or equivalent warning/information label:

DANGER - ULTRAVIOLET RADIATION
FOLLOW INSTRUCTIONS CAREFULLY
DO NOT ENTER WITHOUT PROTECTIVE EYEWEAR

(7) Adequate means shall be provided to enable a consumer to summon assistance from the exposure position.

(8) All persons hired for servicing and repair of tanning devices shall be an Agency licensed service technician or State of Oregon licensed electrician.

(9) Original Equipment Manufacturer (OEM) replacement parts (or equivalent) shall be used, if available, to prevent UL/ETL de-listing of tanning devices. All local, State of Oregon, and National Electrical Codes must be observed during service and repair actions.

(10) Defective or burned out tanning lamps or bulbs shall be replaced with a type intended for use in the device and shall be of the same Ultraviolet range (A or B) as the manufacturer specifies, and shall be the original lamp type as specified by the manufacturer, or certified as an equivalent lamp per 21 CFR 1040.20.

(11) If equivalent lamps are used instead of the Original Equipment Manufacturer (OEM) required lamps, a copy of the equivalency certification, provided by the lamp supplier, shall be maintained on file for review by Agency inspectors.

(12) Defective or burned out tanning lamps and tanning lamps which have been operated in a tanning device for the manufacturer's maximum rated lamp hour life, shall be disposed of in a safe and proper manner to prevent unauthorized and unsafe use as lighting devices. Used tanning lamps are prohibited from being resold for any purpose.

(13) If the Ultraviolet tanning device is not in an individual cubicle, then a suitable screen, curtain, or other shield shall be provided, maintained, and used to prevent unnecessary exposure to Ultraviolet radiation of persons not using the device.

(14) The facility operator shall ensure that consumers do not exceed the exposure time indicated by the manufacturer.

(15) Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040, Section 1040.20(c)(2).

(a) The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time.

(b) Tanning device timers shall be controlled by a properly trained operator. A remote timer control system shall be used for this purpose.

(c) Each tanning device shall be equipped with an emergency shut-off mechanism to allow manual termination of the UV exposure by the consumer, as required by 21 CFR 1040.20(c)(3).

(16) Each timer must be functional and accurate to within ± 10%.

(17) The registrant shall ensure that the timer is checked annually for accuracy.

(18) All tanning devices shall be maintained to the minimum requirements of the manufacturer.

(19) Each tanning device shall be equipped with an hour meter to accurately determine lamp hour use and recording of maintenance service on each device.

Stat. Auth.: ORS 431.925 - ORS 431.955
Stats. Implemented: ORS 431.655, ORS 431.930 & ORS 431.945
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-119-0120
Advertising

(1) No person or facility shall advertise the use of any Ultraviolet A or Ultraviolet B tanning device using wording such as "Safe", "Safe Tanning", "No Harmful Rays", "No Adverse Effect", or similar wording or concepts.

(2) No person, in any advertisement, shall refer to the fact that such person, or such person's facility, is registered with the Agency pursuant to the provisions of this Division, and no person shall state or imply that any activity under such registration has been approved by the Agency.

(3) No person or facility shall advertise or promote tanning packages labeled as "unlimited".

(4) Tanning packages shall include the following written tanning guidelines for all clients:

(a) Initial tanning sessions (three to five) are limited to intervals of at least 48 hours between sessions to allow adequate time for melanin activation and transit to occur prior to subsequent exposures. The manufacturer's recommended exposure schedule posted on tanning devices or listed in the operating manual for the tanning device shall be followed by tanning operators advising new clients during initial tanning sessions.

(b) After the initial (three to five) tanning exposures, tanning sessions are limited to one tanning session per 24-hour period (or one tanning session per 48 hours on tanning devices so labeled) with consumers being properly advised of the manufacturer's recommended exposure schedule posted on tanning devices or listed in the operating manual for the tanning device.

(c) Promotion of annual tanning packages shall include a written statement listing the total number of sessions allowed per person, per year (recommendations should generally not exceed two sessions per week and the maximum of 30-50 sessions per year as recommended by the International Radiation Protection Association (IRPA) and other authorities).

Stat. Auth.: ORS 431.925 - ORS 431.955
Stats. Implemented: ORS 431.930
Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0015
Definitions

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the Curie (Ci). The becquerel is equal to one disintegration per second (dps) and the Curie is equal to 3.7×10^{10} dps.

(3) "Adult" means an individual 18 or more years of age.

(4) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(5) "Airborne radioactivity area" means a room, enclosure, or area in which the airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 10 CFR 20 Appendix B; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours present in a week, and intake of 0.6 percent of the annual limit of intake (ALI) or 12 DAC hours.

(6) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Table I, Columns 1 and 2, of Appendix B.

(7) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from source, byproduct, or special nuclear materials regulated by the Agency.

(8) "Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(9) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days, for Class W, Weeks, from 10 to 100 days , and for Class Y, Years, of greater than 100 days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms.

(10) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50- year period following the intake.

(11) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues ($H_{E,50} = \sum W_T H_{T,50}$).

(12) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(13) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(14) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy and the estimated date of conception.

(15) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of the license; or

(b) Release of the property under restricted conditions and termination of the license.

(16) "Deep-dose equivalent" (H_d), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000 mg/cm^2).

(17) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of 10 CFR 20 Appendix B.

(18) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(19) "Distinguishable from background" means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(20) "Dose or radiation dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in other paragraphs of 333-120-0015.

(21) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(22) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(23) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(24) "Entrance or access point" means any location through which an individual could gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(25) "Exposure" means being exposed to ionizing radiation or to radioactive material.

(26) "External dose" means that portion of the dose equivalent received from radiation sources outside the body.

(27) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(28) "Eye dose equivalent" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2). (See "lens dose equivalent").

(29) "Generally applicable environmental radiation standards" means standards issued by the Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(30) "High radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(31) "Individual" means any human being.

(32) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(33) "Individual monitoring devices" (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(34) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(35) "Lens dose equivalent (LDE)" applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm 2).

(36) "Member of the public" means any individual except when that individual is receiving an occupational dose.

(37) "Minor" means an individual less than 18 years of age.

(38) "Monitoring (radiation monitoring, radiation protection monitoring)" means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(39) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, "deterministic effect" is an equivalent term.

(40) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released, from voluntary participation in medical research programs, or as a member of the public.

(41) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(42) "Public dose" means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released, or from voluntary participation in medical research programs.

(43) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(44) "Radiation" (ionizing radiation) means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio- or microwaves, or visible, infrared, or ultraviolet light.

(45) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(46) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(47) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site.

(48) "Restricted area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(49) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(50) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(51) "Shallow-dose equivalent" (H_S), which applies to the external exposure of the skin or an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2) averaged over an area of 1 square centimeter.

(52) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(53) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, "probabilistic effect" is an equivalent term.

(54) "Survey" means an evalulation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(55) "Total Effective Dose Equivalent" (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(56) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee.

(57) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates.[1/]

[1/] At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equvalent, sievert and rem.

(58) "Weighting factor" (w_T) for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

Organ Dose Weighting Factors

Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 [a/]
Whole Body	1.00 [b/]

[a/] 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

[b/] For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(59) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(60) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in 1 liter of air that will result in the ultimate emission of 1.3x10 5 MeV of potential alpha particle energy.

(61) "Working level month" (WLM) means an exposure to 1 working level for 170 hours (2,000 working hours per year/12 months per year equals approximately 170 hours per month).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stat. Imp.: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-120-0017
Implementation

(1) Any existing license or registration condition that is more restrictive than OAR 333-120 remains in force until there is an amendment or renewal of the license or registration.

(2) If a license or registration condition exempts a licensee or registrant from a provision of OAR 333-120 in effect on or before September 1, 2002, it also exempts the licensee or registrant from the corresponding provision of OAR 333-120.

(3) If a license or registration condition cites provisions of OAR 333-120 in effect prior to September 1, 2002, which do not correspond to any provisions of OAR 333-120, the license or registration condition remains in force until there is an amendment or renewal of the license or registration that modifies or removes this condition.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stat. Imp.: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-120-0100
Occupational Dose Limits For Adults

(1) Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures under OAR 333-120-0150, to the following dose limits:

(a) An annual limit, which is the more limiting of:

(A) The total effective dose equivalent being equal to 0.05 Sv (5 rem); or

(B) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin, and to the extremities which are:

(A) A lens dose equivalent of 0.15 Sv (15 rem), and

(B) A shallow-dose equivalent of 0.50 Sv (50 rem) to the skin or to any of the extremities.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, must be subtracted from the limits for planned special exposures, as defined in OAR 333-100-0005(97), that the individual may receive during the current year (OAR 333-120-0150(5)(a) and during the individual's lifetime (OAR 333-120-0150(5)(b)).

NOTE: A licensee or registrant may permit a radiation worker to receive more than 0.05 Sv (5 rem) per year TEDE or 0.5 Sv (50 rem) to the skin, extremities, or organ, or 0.15 Sv (15 rem) to the lens of the eye during a planned special exposure (PSE) only if: (a) there are no other alternatives available or practical; (b) the PSE is authorized in writing before it occurs; (c) the individuals who will be exposed are told the reason for the PSE, the dose they are expected to receive, the risks from that dose and the conditions under which they will be working (e.g radiation or contamination levels), and how to keep their doses ALARA; (d) the licensee or registrant determines the worker's prior doses (lifetime history); (e) the total dose expected from the PSE plus any previous doses over the annual limit do not exceed the standard annual dose limits [0.05 Sv/yr (5 rem/yr) whole body, 0.5 Sv/yr (50 rem/yr) skin, extremities or organ, 0.15 Sv/yr (15 rem/yr) lens of eye], or five times the standard limits in the worker's lifetime; (f) the licensee or registrant maintains the appropriate records and files the appropriate reports; and (g) after the PSE, the licensee or registrant records the dose received and notifies the worker in writing of the dose received within 30 days after the PSE. The dose received from the PSE does not affect the worker's ability to receive the standard annual doses but is included in the worker's lifetime history and added to any future PSEs.

The assigned deep-dose equivalent and shallow-dose equivalent must be for the part of the body receiving the highest exposure:

(a) The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in 333-120-0210(1)(d) the effective dose equivalent for external radiation shall be determined as follows:

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent shall be the effective dose equivalent for external radiation; or

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in D.201a the reported deep dose equivalent value multiplied by 0.3 shall be the effective dose equivalent for external radiation; or

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation shall be assigned the

value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401 and may be used to determine the individual's dose (OAR 333-120-0650) and to demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the licensee shall limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity (see 10 CFR Part 20 footnote 3 of Appendix B to 20.1001 to 20.2401).

(6) When monitoring is required by OAR 333-120-0210 each licensee or registrant shall reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person (OAR 333-120-0630(5)).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented:ORS 453.615, ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0110
Compliance with Requirements for Summation of External and Internal Doses

(1) If the licensee is required to monitor under OAR 333-120-0210(1) and (2), the licensee shall demonstrate compliance with the dose limits by summing external and internal doses. If the licensee is required to monitor only under OAR 333-120-0210(1) or only under OAR 333-120-0210(2), then summation is not required to demonstrate compliance with the dose limits. The licensee may demonstrate compliance with the requirements for summation of external and internal doses by meeting one of the conditions specified in 333-120-0110(2) and the conditions in 333-120-0110(3) and 333-120-0110(4).

NOTE: The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation, but are subject to separate limits.

(2) Intake by Inhalation. If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity:

(a) The sum of the fractions of the inhalation ALI for each radionuclide, or

(b) The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or

(c) The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using appropriate biological models and expressed as a fraction of the annual limit.

NOTE: An organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, wT, and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10 percent of the maximum weighted value of H_{T50} (i.e $w_T H_{T,50}$) per unit intake for any organ or tissue.

(3) Intake by Oral Ingestion. If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10 percent of the applicable oral ALI, the licensee shall account for this intake and include it in demonstrating compliance with the limits.

(4) Intake Through Wounds or Absorption Through Skin. The licensee shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for hydrogen-3 and does not need to be further evaluated.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0130
Determination of Internal Exposure

(1) For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, the licensee shall, when required under OAR 333-120-0210, take suitable and timely measurements of:

(a) Concentrations of radioactive materials in air in work areas; or

(b) Quantities of radionuclides in the body; or

(c) Quantities of radionuclides excreted from the body; or

(d) Combinations of these measurements.

(2) Unless respiratory protective equipment is used, as provided in OAR 333-120-0320 or the assessment of intake is based in bioassays, the licensee shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.

(3) When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior or the material in an individual is known, the licensee may:

(a) Use that information to calculate the committed effective dose equivalent, and, if used, the licensee shall document that information in the individual's record; and

(b) Upon prior approval of the Agency, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material (e.g aerosol size distribution or density); and

(c) Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of given radionuclide (see 10 CFR Part 20 Appendix B to 20.1001 to 20.2401) to the committed effective dose equivalent.

(4) If the licensee chooses to assess intakes of Class Y material using the measurements given in 333-120-0130(1), 333-120-0130(2) or 333-120-0130(3), the licensee may delay the recording and reporting of the assessments for periods up to 7 months, unless otherwise required by OAR 333-120-0710 or 333-120-0720, in order to permit the licensee to make additional measurements basic to the assessments.

(5) If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours must be either:

(a) The sum of the ratios of the concentration to the appropriate DAC value (e.g D, W, Y) from 10 CFR Part 20 Appendix B to 20.1001 to 20.2401 for each radionuclide in the mixture; or

(b) The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.

(6) If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture must be the most restrictive DAC of any radionuclide in the mixture.

(7) When a mixture of radionuclides in air exists, licensees may disregard certain radionuclides in the mixture if:

(a) The licensee uses the total activity of the mixture in demonstrating compliance with the dose limits in OAR 333-120-0100 and in complying with the monitoring requirements in OAR 333-120-0210(2), and

(b) The concentration of any radionuclide disregarded is less than 10 percent of its DAC, and

(c) The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30 percent.

(8) When determining the committed effective dose equivalent, the following information may be considered:

(a) In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of one ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.

(b) When the ALI (and the associated DAC) is determined by the nonstochastic organ dose limit of 0.50 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) (the stochastic ALI) is listed in parentheses in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401. In this case, the licensee may, as a simplifying assumption, use the stochastic ALIs to determine committed effective dose equivalent. However, if the licensee uses the stochastic ALIs, the licensee also must demonstrate that the limit in OAR 333-120-0100(1)(a)(B) is met.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0170
Dose to an Embryo/Fetus

(1) The licensee or registrant shall ensure that the dose equivalent to an embryo/fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, as defined in OAR 333-100-0005(30), does not exceed 5 mSv (0.5 rem). Records shall be kept in accordance with OAR 333-120-0650.

NOTE: A woman is not a declared pregnant woman unless she says so in writing without being coerced. Unless a woman, who also is a radiation worker, has declared her pregnancy as required, she is to be treated as any other radiation worker. Pursuant to Title VII of the Civil Rights Act of 1964, as amended, no employer may restrict a fertile female's job because of concern for the health of the fetus that a woman might conceive. The court held that sex-specific fetal-protection policies are forbidden. Additionally, a female worker legally can declare pregnancy if she does not yet have documented medical proof. The document, "Instruction Concerning Prenatal Radiation Exposure", discusses declared pregnancy. It is available from Oregon Health Services, Radiation Protection Services Suite 260, 800 N.E. Oregon St., Portland, OR 97202, phone 503/731-4014.

(2) The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman, as defined in OAR 333-100-0005(30), so as to satisfy the limit in 333-120-0170(1).

(3) The dose equivalent to an embryo/fetus shall be taken as the sum of:

(a) The deep-dose equivalent to the declared pregnant woman, as defined in OAR 333-100-0005(30); and

(b) The dose equivalent to the embryo/fetus from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman, as defined in OAR 333-100-0005(30).

(4) If the dose equivalent to the embryo/fetus is found to have exceeded 4.5 mSv (0.45 rem) by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with 333-120-0170(1) if the additional dose to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

NOTE: If a pregnant radiation worker declares in writing to the licensee that she is pregnant, the dose limit to the embryo/fetus is 5 mSv (0.5 rem) during the entire pregnancy. The dose that is controlled is the dose to the embryo/fetus, not the dose to the woman, although for external penetrating radiation, the two are virtually synonymous.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0180
Dose Limits for Individual Members of the Public

(1) Each licensee or registrant shall conduct operations so that:

(a) The total effective dose equivalent to individual members of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, exclusive of the dose contribution from any medical administration the individual has received, from exposure to individuals administered radioactive material and released in accordance with 333-116-0260, from voluntary participation in medical research programs, and the licensee's disposal of radioactive material into sanitary sewerage in accordance with OAR 333-120-0520; and

(b) The dose in any unrestricted area from external sources does not exceed 0.02 mSv (0.002 rem) in any one hour.

(2) If the licensee or registrant permits members of the public to have access to controlled areas, the limits for members of the public continue to apply to those individuals.

(3) A licensee, registrant or applicant may apply for prior Agency authorization to operate up to an annual dose limit for an individual member of the public of 5 mSv (0.5 rem). The licensee, registrant or applicant shall include the following information in this application:

(a) Demonstration of the need for and the expected duration of operations in excess of the limit in 333-120-0180(1); and

(b) The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and

(c) The procedures to be followed to maintain the dose as low as is reasonably achievable.

(4) In addition to the requirements of this Division, a licensee or registrant subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190 shall comply with those standards.

(5) The Agency may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0190
Compliance with Dose Limits for Individual Members of the Public

(1) The licensee or registrant shall make or cause to be made, as appropriate, surveys of radiation levels in unrestricted and controlled areas and radioactive materials in effluents released to unrestricted and controlled areas to demonstrate compliance with the dose limits for individual members of the public in OAR 333-120-0180.

(2) A licensee or registrant shall show compliance with the annual dose limit in OAR 333-120-0180 by:

(a) Demonstrating by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or

(b) Demonstrating that:

(A) The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401; and

(B) If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.

(3) Upon approval from the Agency, the licensee or registrant may adjust the effluent concentration values in 10 CFR Part 20 Table 2 of Appendix B to 20.1001 to 20.2401 for members of the public, to take into account the actual physical and chemical characteristics of the effluents (e.g aerosol size distribution, solubility, density, radioactive decay equilibrium, chemical form).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0200
General

(1) Each licensee or registrant shall make or cause to be made, surveys that:

(a) Are necessary for the licensee or registrant to comply with the rules in this Division; and

(b) Are reasonable under the circumstances to evaluate:

(A) The magnitude and extent of radiation levels; and

(B) The concentrations or quantities of radioactive material; and

(C) The potential radiological hazards that could be present.

(2) The licensee or registrant shall ensure that instruments and equipment used for quantitative radiation measurements (e.g dose rate and effluent monitoring) are calibrated at intervals not to exceed 12 months for the radiation measured, except when a more frequent interval is specified in another applicable Division or a license condition.

(3) All personnel dosimeters (except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to the extremities) that require processing to determine the radiation dose and that are used by licensees or registrants to comply with OAR 333-120-0100, with other applicable provisions of this Division or with conditions specified in a license must be processed and evaluated by a dosimetry processor:

(a) Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology; and

(b) Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

(4) The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0210
Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

Each licensee or registrant shall monitor exposures to radiation and radioactive material at levels sufficient to demonstrate compliance with the occupational dose limits of this Division. As a minimum:

(1) Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

(a) Adults likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of the limits in OAR 333-120-0100(1); and

(b) Minors likely to receive, in 1 year from sources external to the body, a dose in excess of 10 percent of any of the applicable limits in division OAR 333-120-0160 or 333-120-0170; and

(c) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem); and

(d) Individuals entering a high or very high radiation area.

(e) Individuals working with medical fluoroscopic equipment.

(A) An individual monitoring device used for the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), shall be located under the protective apron at the waist.

(B) An individual monitoring device used for lens dose equivalent shall be located at the neck, or an unshielded location closer to the lens, outside the protective apron.

(C) When only 1 individual monitoring device is used to determine the effective dose equivalent for external radiation pursuant to 333-120-0100(3)(b) it shall be located at the neck outside the protective apron. When a second individual monitoring device is used, for the same purpose, it shall be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.

(2) Each licensee or registrant shall monitor (OAR 333-120-0130) the occupational intake of radioactive material by and assess the committed effective dose equivalent to:

(a) Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI(s) in 10 CFR Part 20 Table 1, Columns 1 and 2, of Appendix B to 20.1001 to 20.2401; and

(b) Minors and declared pregnant women likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem).

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

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0215

Location of Individual Monitoring Devices

Each licensee or registrant shall ensure that individuals who are required to monitor occupational doses in accordance with 333-120-0210(1). wear individual monitoring devices as follows:

(1) An individual monitoring device used for monitoring the dose to the whole body shall be worn at the unshielded location of the whole body likely to receive the highest exposure. When a protective apron is worn, the location of the individual monitoring device is typically at the neck (collar);

(2) An individual monitoring device used for monitoring the dose to an embryo/fetus of a declared pregnant woman, pursuant to 333-120-0170(1), shall be located at the waist under any protective apron being worn by the woman;

(3) An individual monitoring device used for monitoring the lens dose equivalent, to demonstrate compliance with 333-120-0100(1)(b)(A), shall be located at the neck (collar), outside any protective apron being worn by the monitored individual, or at an unshielded location closer to the eye;

(4) An individual monitoring device used for monitoring the dose to the extremities, to demonstrate compliance with 333-120-0100(1)(b)(B), shall be worn on the extremity likely to receive the highest exposure. Each individual monitoring device shall be oriented to measure the highest dose to the extremity being monitored.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.615, 453.625, 453.635

Hist.: PH 3-2003, f. & cert. ef. 3-27-03

333-120-0220

Control of Access to High Radiation Areas

(1) The licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:

(a) A control device that, upon entry into the area, causes the level of radiation to be reduced below that level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates;

(b) A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or

(c) Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entry.

(2) In place of the controls required by 333-120-0220(1) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

(3) A licensee or registrant may apply to the Agency for approval of alternative methods for controlling access to high radiation areas.

(4) The licensee or registrant shall establish the controls required by 333-120-0220(1) and 333-120-0220(3) in a way that does not prevent individuals from leaving a high radiation area.

(5) Control is not required for each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation (49 CFR) provided that:

(a) The packages do not remain in the area longer than 3 days; and

(b) The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.

(6) Control of entrance or access to rooms or other areas in hospitals is not required solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this Division and to operate within the ALARA provisions of the licensee's or registrant's radiation protection program.

(7) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0230

Control of Access to Very High Radiation Areas

(1)In addition to the requirements in OAR 333-120-0220, the licensee or registrant shall institute additional measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 500 rad (5 grays) or more in 1 hour at 1 meter from a radiation source or any surface through which the radiation penetrates.

(2) The licensee or registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area as described in 333-120-0220 if the licensee or registrant has met all the specific requirements for access and control specified in other applicable divisions of chapter 333, such as, 333-105 for industrial radiography, 333-106 for x-rays in the healing arts, and 333-109 for particle accelerators.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0240

Control of Access to Very High Radiation Areas — Irradiators

This section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. It does not apply to sources of radiation that are used in teletherapy, in industrial radiography, or in completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

(1) Each area in which there may exist radiation levels in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a sealed radioactive source that is used to irradiate materials must meet the following requirements.

(a) Each entrance or access point must be equipped with entry control devices which:

(A) Function automatically to prevent any individual from inadvertently entering the area when very high radiation levels exist; and

(B) Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the sealed source, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(C) Prevent operation of the source if the source would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in 1 hour.

NOTE: This rule applies to radiation from accelerators, and byproduct, source, NARM, or special nuclear radioactive materials that are used in sealed sources in non-self-shielded irradiators. This rule does not apply to radioactive or x-ray sources that are used in teletherapy or medical accelerators, in radiography, or in completely self-shielded irradiators in which the source is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual. This rule also does not apply to sources from which the radiation is incidental to some other use.

(b) Additional control devices must be provided so that, upon failure of the entry control devices to function as required by 333-120-0240(1)(a):

(A) The radiation level within the area, from the sealed source, or radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make an individual attempting to enter the area aware of the hazard and at least one other authorized individual, who is physically present, familiar with the activity, and prepared to render or summon assistance, aware of the failure of the entry control devices.

(c) The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the radiation source's shield or shielded storage container:

(A) The radiation level from the radiation source is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour; and

(B) Conspicuous visible and audible alarm signals are generated to make potentially affected individuals aware of the hazard and the licensee/registrant or at least one other individual, who is familiar with the activity and prepared to render or summon assistance, aware of the failure or removal of the physical barrier.

(d) When the shield for the stored source is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.

(e) Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of 333-120-0240(1)(c) and 333-120-0240(d).

(f) Each area must be equipped with devices that will automatically generate conspicuous visible and audible alarm signals to alert personnel in the area before the source can be put into operation and in sufficient time for any individual in the area to operate a clearly identified control device, which must be installed in the area and which can prevent the source from being put into operation.

(g) Each area must be controlled by use of such administrative procedures and such devices as are necessary to ensure that the area is cleared of personnel prior to each use of the radiation source.

(h) Each area must be checked by a radiation measurement to ensure that, prior to the first individual's entry into the area after any use of the source, the radiation level from the source in the area is below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour.

(i) The entry control devices required in 333-120-0240(1)(a) must have been tested for proper functioning. Records of required testing shall be maintained in accordance with OAR 333-120-0680.

(A) Testing must be conducted prior to initial operation with the source of radiation on any day (unless operations were continued uninterrupted from the previous day); and

(B) Testing must be conducted prior to resumption of operation of the source of radiation after any unintended interruption; and

(C) The licensee or registrant shall submit and adhere to a schedule for periodic tests of the entry control and warning systems.

(j) The licensee or registrant may not conduct operations, other than those necessary to place the source in safe condition or to effect repairs on controls, unless control devices are functioning properly.

(k) Entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by individuals, must be controlled by such devices and administrative procedures as are necessary to physically protect and warn against inadvertent entry by any individual through these portals. Exit portals for processed materials must be equipped to detect and signal the presence of any loose radiation sources that are carried toward such an exit and to automatically prevent loose radiation sources from being carried out of the area.

(2) Persons holding licenses or registrations or applicants for licenses or registrations for radiation sources that are within the purview of 333-120-0240(1) and that will be used in a variety of positions or in locations, such as open fields or forests, that make it impracticable to comply with certain requirements of 333-120-0240(1), such as those for the automatic control of radiation levels, may apply to the Agency for approval of the use of alternative safety measures. Any alternative safety measures must provide a degree of personnel protection at least equivalent to those specified in 333-120-0240(1). At least one of the alternative measures must include an entry-preventing interlock control based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where such radiation sources are used.

(3) The entry control devices required by 333-120-0240(1) and 333-120-0240(2) must be established in such a way that no individual will be prevented from leaving the area.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0250
Security of Stored Material

(1) The licensee shall secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

(2) The registrant shall secure registered radiation machines from unauthorized removal.

(3) The registrant shall use devices or administrative procedures to prevent unauthorized use of registered radiation machines.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0320
Use of Individual Respiratory Protection Equipment

(1) If the licensee uses respiratory protection equipment to limit intakes pursuant to OAR 333-120-0310:

(a) The licensee shall use only respiratory protection equipment that is tested and certified or had certification extended by the National Institute for Occupational Safety and Health/Mine Safety and Health Administration (NIOSH/MSHA).

(b) The licensee may use equipment that has not been tested or certified by NIOSH/MSHA, has not had certification extended by NIOSH/MSHA, or for which there is no schedule for testing or certification, the licensee shall submit an application for authorized use of that equipment, including a demonstration by testing, or a demonstration on the basis of reliable test information, that the material and performance characteristics of the equipment are capable of providing the proposed degree of protection under anticipated conditions of use.

(c) The licensee shall implement and maintain a respiratory protection program that includes:

(A) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures; and

(B) Surveys and bioassays, as appropriate, to evaluate actual intakes; and

(C) Testing of respirators for operability immediately prior to each use; and

(D) Written procedures regarding selection, fitting, issuance, maintenance, and testing of respirators, including testing for operability immediately prior to each use; supervision and training of personnel; monitoring, including air sampling and bioassays; and recordkeeping; and

(E) Determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment.

(d) The licensee shall issue a written policy statement on respirator usage covering:

(A) The use of process or other engineering controls, instead of respirators; and

(B) The routine, nonroutine, and emergency use of respirators; and

(C) The periods of respirator use and relief from respirator use.

(e) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(f) The licensee shall use equipment within limitations for type and mode of use and shall provide proper visual, communication, and other special capabilities (such as adequate skin protection) when needed.

(2) In estimating exposure of individuals to airborne radioactive materials, the licensee or registrant may make allowance for respiratory protection equipment used to limit intakes pursuant to OAR 333-120-0310, provided that the following conditions, in addition to those in 333-120-0320(1), are satisfied:

(a) The licensee selects respiratory protection equipment that provides a protection factor (10 CFR Part 20 Appendix A to 20.1001 to 20.2401) greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in 10 CFR Part 20 Table 1, Column 3 of Appendix B to 20.1001 to 20.2401. If the selection of a respiratory protection device with a protection factor greater than the peak concentration is inconsistent with the goal specified in OAR 333-120-0310 of keeping the total effective dose

equivalent ALARA, the licensee or registrant may select respiratory protection equipment with a lower protection factor only if such a selection would result in keeping the total effective dose equivalent ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used; if the exposure is later found to be less than estimated, the corrected value may be used; and

(b) The licensee shall obtain authorization from the Agency before assigning respiratory protection factors in excess of those specified in 10 CFR Part 20 Appendix A to 20.1001 to 20.2401. The Agency may authorize a licensee to use higher protection factors on receipt of an application that:

(A) Describes the situation for which a need exists for higher protection factors; and

(B) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

(3) The licensee shall use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH/MSHA.

(4) The licensee shall notify the Agency, in writing, at least 30 days before the date that respiratory protection equipment is first used under the provisions of either 333-120-0320(1) or 333-120-0320(2).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0400
Caution Signs

(1) Standard radiation symbol: Unless otherwise authorized by the Agency, the symbol prescribed by this Division shall use the colors magenta, purple, or black on yellow background. The symbol prescribed by this Division is the three-bladed design: [Symbol not included. See ED. NOTE.]

(a) Cross-hatched area is to be magenta, or purple, or black; and

(b) The background is to be yellow.

(2) Exception To Color Requirements For Standard Radiation Symbol. Notwithstanding the requirements of 333-120-0400(1), licensees and registrants are authorized to label sources, source holders, or device components containing sources of licensed materials that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols and without a color requirement.

(3) Additional Information On Signs and Labels. In addition to the contents of signs and labels prescribed in this Division, the licensee may provide, on or near the required signs and labels, additional information, as appropriate, to make individuals aware of potential radiation exposures and to minimize the exposures.

[ED NOTE: Symbol referenced in this rule is available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0420
Exceptions to Posting Requirements

(1) A licensee is not required to post caution signs in areas or rooms containing radioactive materials for periods of less than 8 hours, if each of the following conditions is met:

(a) The materials are constantly attended during these periods by an individual who takes the precautions necessary to prevent the exposure of individuals to radiation or radioactive materials in excess of the limits established in this Division; and

(b) The area or room is subject to the licensee's control.

(2) Rooms or other areas in hospitals that are occupied by patients are not required to be posted with caution signs pursuant to OAR 333-120-0410 provided that:

(a) A patient being treated with a permanent implant or therapeutic radiopharmaceutical could be released from confinement pursuant to 333-116-0260 and 333-116-0265 of this Chapter; and

(b) There are personnel in attendance who will take the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the limits established in this Division and to operate within the ALARA provisions of the licensee's radiation protection program.

(3) A caution sign is not required to be posted in a room or area containing a sealed source, provided the radiation level at 30 centimeters from the surface of the source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.

Stat. Auth.:ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0430
Labeling Containers

(1) The licensee shall ensure that each container of licensed material bears a durable, clearly visible label bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL" The label must also provide sufficient information (such as the radionuclide(s) present, an estimate of the quantity of radioactivity, the date for which the activity is estimated, radiation levels, kinds of materials, and mass enrichment) to permit individuals handling or using the containers, or working in the vicinity of the containers, to take precautions to avoid or minimize exposures.

(2) Each licensee shall, prior to removal or disposal of empty uncontaminated containers to unrestricted areas, remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.

(3) Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner which cautions individuals that radiation is produced when it is energized.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0450
Procedures for Receiving and Opening Packages

(1) Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 49 CFR 173.435 Table of A1 and A2 Values for Radionuclides, shall make arrangements to receive:

(a) The package when the carrier offers it for delivery; or

(b) Notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.

(2) Each licensee shall:

(a) Monitor the external surfaces of a labeled package for radioactive contamination unless the package contains only radioactive material in the form of a gas or in special form as defined in 333-118-0020;

(b) Monitor the external surfaces of a labeled package for radiation levels; and

NOTE: Labeled with a Radioactive White I, Yellow II, or Yellow III label as specified in U.S. Department of Transportation regulations, 49 CFR 172.403 and 172.436-440

(c) Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.

(3) The licensee shall perform the monitoring required by 333-120-0450(2) as soon as practicable after receipt of the package, but not later than 3 hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than 3 hours from the beginning of the next working day if it is received after working hours.

(4) The licensee shall immediately notify the final delivery carrier and, by telephone and telegram, mail-gram, or facsimile, the Agency when:

(a) Removable radioactive surface contamination exceeds the limits of OAR 333-118-0150 Table 3;

(b) External radiation levels exceed the limits of OAR 333-118-0150(11).

(5) Each licensee shall:

(a) Establish, maintain, and retain written procedures for safely opening packages in which radioactive material is received; and

(b) Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.

(6) Licensees transferring special form sources in licensee-owned or licensee-operated vehicles to and from a work site are exempt from the contamination monitoring requirements of 333-120-0450(2), but are not exempt from the survey requirement in 333-120-0450(2) for measuring radiation levels, which is required to ensure that the source is still properly lodged in its shield.

[ED. NOTE: Tables referenced in this rule are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625 & ORS 453.635

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0460
Testing for Leakage or Contamination of Sealed Sources

(1) The licensee in possession of any sealed source shall assure that:

(a) Each sealed source, except as specified in 333-120-0460(2) is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee; and

(b) Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(c) Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission; and

(d) For each sealed source that is required to be tested for leakage or contamination, at any other time there is reason to suspect that the sealed source might have been damaged or might be leaking, the licensee shall assure that the sealed source is tested for leakage or contamination before further use; and

(e) Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium-226, shall be capable of detecting the presence of 185 Bq (0.005 μCi) of radioactive material on a test sample. Test samples shall be taken from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which one might expect contamination to accumulate. For a sealed source contained in a device, test samples are obtained when the source is in the "off" position; and

(f) The test for leakage for brachytherapy sources manufactured to contain radium-226 shall be capable of detecting an absolute leakage rate of 37 Bq (0.001 μCi) of radon-222 in a 24 hour period when the collection efficiency for radon-222 and its daughters has been determined with respect to collection method, volume and time; and

(g) Tests for contamination from radium-226 daughters shall be taken on the interior surface of brachytherapy source storage containers and shall be capable of detecting the presence of 185 Bq (0.005 μCi) of a radium daughter which has a half-life greater than 4 days.

(2) A licensee need not perform test for leakage or contamination on the following sealed sources:

(a) Sealed sources containing only radioactive material with a half-life of less than 30 days; or

(b) Sealed sources containing only radioactive material as a gas; or

(c) Sealed sources containing 3.7 MBq (100 μCi) or less of beta or photon-emitting material or 370 kBq (10 μCi) or less of alpha-emitting material; or

(d) Sealed sources containing only hydrogen-3; or

(e) Seeds of iridium-192 encased in nylon ribbon; or

(f) Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall, however, test each such sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within 6 months before the date of use or transfer.

(3) Tests for leakage or contamination from sealed sources shall be performed by persons specifically authorized by the Agency, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission to perform such services.

(4) Test results shall be kept in units of becquerel or microcurie and maintained for inspection by the Agency.

(5) The following shall be considered evidence that a sealed source is leaking:

(a) The presence of 185 Bq (0.005 μCi) or more of removable contamination on any test sample; or

(b) Leakage of 37 Bq (0.001 μCi) of radon-222 per 24 hours for brachytherapy sources manufactured to contain radium-226; or

(c) The presence of removable contamination resulting from the decay of 185 Bq (0.005 μCi) or more of radium-226.

(6) The licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Division.

(7) Reports of test results for leaking or contaminated sealed sources shall be made pursuant to OAR 333-120-0720(1)(e).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0520
Disposal by Release into Sanitary Sewerage

(1) A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:

(a) The material is readily soluble (or is readily dispersible biological material) in water; and

(b) The quantity of licensed or other radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee does not exceed the concentration listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(c) If more than one radionuclide is released, the following conditions also must be satisfied:

(A) The licensee shall determine the fraction of the limit in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401 represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee into the sewer by the concentration of that radionuclide listed in 10 CFR Part 20 Table 3 of Appendix B to 20.1001 to 20.2401; and

(B) The sum of the fractions for each radionuclide required by 333-120-0520(1)(c)(A) does not exceed unity; and

(d) The total quantity of licensed and other radioactive material that the licensee releases into the sanitary sewerage system in a year does not exceed 185 GBq (5 Curies) of hydrogen-3, 37 GBq (1 Curie) of carbon-14, and 37 GBq (1 Curie) of all other radioactive materials combined.

(2) Excreta from individuals undergoing medical diagnosis or therapy with radioactive material is not subject to the limitations contained in 333-120-0520(1).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.655
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0540
Disposal of Specific Wastes

(1) A licensee may dispose of the following licensed material as if it were not radioactive:

(a) 1.85 kBq (0.05 μCi), or less, of hydrogen-3 or carbon-14 per gram of medium used for liquid scintillation counting; and

(b) 1.85 kBq (0.05 μCi), or less, of hydrogen-3 or carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.

(2) A licensee may not dispose of tissue under 333-120-0540(1)(b) in a manner that would permit its use either as food for humans or as animal feed.

(3) The licensee shall maintain records in accordance with OAR 333-120-0670.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635, ORS 453.655 & ORS 453.665
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0550
Transfer for Disposal and Manifests

(1) The requirements 333-120-0550 and 10 CFR Part 20 Appendix G to 20.1001 to 20.2401 are designed to control transfers of low-level radioactive waste intended for disposal at a land disposal facility (as defined in 10 CFR Part 61), establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest as specified in 10 CFR Part 20 section I of Appendix G to 20.1001 to 20.2401.

(3) Each shipment manifest must include a certification by the waste generator as specified in 10 CFR Part 20 section II of Appendix G to 20.1001 to 20.2401.

(4) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in 10 CFR Part 20 section III of Appendix G to 20.1001 to 20.2401.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.655
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0560
Compliance with Environmental and Health Protection Regulations

Nothing in Chapter 333 divisions 100 through 121 relieves the licensee from complying with other applicable Federal, State, and local regulations or rules governing any other toxic or hazardous properties of materials that may be disposed of under division 333-120.

Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0600
General Provisions

(1) Each licensee shall use the SI units Becquerel, Gray, Sievert and coulomb per kilogram, or the special units curie, rad, rem, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Division.

(2) The licensee shall make a clear distinction among the quantities entered on the records required by this Division (e.g total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0610
Records of Radiation Protection Programs

(1) Each licensee shall maintain records of the radiation protection program, including:

(a) The provisions of the program; and

(b) Audits and other reviews of program content and implementation.

(2) The licensee shall retain the records required by 333-120-0610(1)(a) until the Agency terminates each pertinent license or registration requiring the record. The licensee shall retain the records required by 333-120-0610(1)(b) for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.625 & ORS 453.635
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0640
Records of Planned Special Exposures

(1) For each use of the provisions of OAR 333-120-0150 for planned special exposures, the licensee shall maintain records that describe:

(a) The exceptional circumstances requiring the use of a planned special exposure; and

(b) The name of the management official who authorized the planned special exposure and a copy of the signed authorization; and

(c) What actions were necessary; and

(d) Why the actions were necessary; and

(e) How doses were maintained ALARA; and

(f) What individual and collective doses were expected to result, and the doses actually received in the planned special exposure.

(2) The licensee shall retain the records until the Agency terminates each pertinent license or registration requiring these records.

(3) Upon termination of the license or registration, the licensee or registrant shall permanently store records on Agency Form Y or equivalent, or shall make provision with the Agency for transfer to the Agency.

[ED. NOTE: Forms referenced in this rule are available from the agency.]
Stat. Auth.: ORS 453.605 - 453.807
Stats. Implemented: ORS 453.615, 453.635, 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0650
Records of Individual Monitoring Results

(1) Recordkeeping Requirement. Each licensee shall maintain records of doses received by all individuals for whom monitoring was required pursuant to OAR 333-120-0210 and records of doses received during planned special exposures, accidents, and emergency conditions. These records must include, when applicable:

(a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities; and

(b) The estimated intake or body burden of radionuclides (OAR 333-120-0110); and

(c) The committed effective dose equivalent assigned to the intake or body burden of radionuclides; and

(d) The specific information used to calculate the committed effective dose equivalent pursuant to OAR 333-120-0130(3); and

(e) The total effective dose equivalent when required by OAR 333-120-0110; and

(f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

NOTE: Assessments of dose equivalent and records made using units in effect before the licensee's adoption of this Division need not be changed.

(2) Recordkeeping Frequency: The licensee shall make entries of the records specified in 333-120-0650(1) at least annually.

(3) Recordkeeping Format. The licensee shall maintain the records specified in 333-120-0650(1) on Agency Form Z, in accordance with the instructions for Agency Form Z, or in clear and legible records containing all the information required by Agency Form Z.

(4) Privacy Protection. The records required under this rule are protected from public disclosure because of their personal privacy nature. These records are protected and if transferred to the Agency, are protected under ORS 192.

(5) The licensee shall maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman, as defined in OAR 333-100-0005(30). The declaration of pregnancy shall also be kept on file, but may be maintained separately from the dose records.

(6) The licensee shall retain each required form or record until the Agency authorizes disposition.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type (Social Security Number (SSN), Passport Number (PPN), Canadian Social Insurance Number (CSI), Work Permit Number (WPN), INDEX Identification Number (IND), or Other (OTH)); sex; date of birth; monitoring period; licensee name; license or registration number; is dose is official record or estimate; if dose is routine or planned special exposure; intake, list radionuclide, class, mode, total intake (Ci); external dose(s), DDE (Deep Dose Equivalent in rems), LDE (Lens Dose Equivalent in rems), SDE(WB) (Shallow Dose Equivalent Whole Body in rems), SED(ME) (Shallow Dose Equivalent Maximum Extremity in rems), CEDE (Committed Effective Dose Equivalent in rems), CDE (Committed Dose Equivalent in rems), TEDE (Total Effective Dose Equivalent in rems) and TODE Total Organ Dose Equivalent in rems).

[ED. NOTE: Forms referenced in this rule are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0660
Records of Dose to Individual Members of the Public

(1) Each licensee shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (OAR 333-120-0180).

(2) The licensee shall retain the records required by 333-120-0660(1) until the Agency terminates each pertinent licensee requiring the record.

NOTE: The following information is required on Form Z, Occupational Exposure Record for a Monitoring Period: Name; identification number and type of number, such as SSN; sex; date of birth; monitoring period; licensee name; license or registration number; if dose is official record or estimate; if dose is routine or planned special exposure; intakes, list radionuclide, class, mode, and total intake (Ci); external dose(s), DDE, LDE, SDE(WB), SDE(ME), CEDE, CDE, TEDE and TODE; signature of monitored individual and date signed; certifying organization and signature.

[ED. NOTE: Forms referenced in this rule are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0670
Records of Waste Disposal

(1) Each licensee shall maintain records of the disposal of licensed materials made under divisions OAR 333-120-0510, 333-120-0520, 333-120-0530, 333-120-0540, 10 CFR Part 61, and disposal by burial in soil, including burials authorized before January 28, 1981.

(2) The licensee shall retain the records required by 333-120-0670(1) until the Agency terminates each pertinent license requiring the record.

Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635, ORS 453.655 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0680
Records of Testing Entry Control Devices for Very High Radiation Areas

(1) Each licensee shall maintain records of tests made under OAR 333-120-0240(1)(i) on entry control devices for very high radiation areas. These records must include the date, time, and results of each such test of function.

(2) The licensee shall retain the records required by 333-120-0680(1) for five years or until inspected by the Agency.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.615, ORS 453.625, ORS 453.635 & ORS 453.695
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0700
Reports of Theft or Loss of Licensed Material

(1) Telephone reports: Each licensee or registrant shall report by telephone to the Agency as follows:

(a) Immediately after its occurrence becomes known to the licensee or registrant, any lost, stolen, or missing licensed or registered device, or licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401, under such circumstances that it appears to the licensee or registrant that an exposure could result to persons in unrestricted areas; or

(b) Within 30 days after the occurrence of any lost, stolen, or missing licensed or registered device, or licensed radioactive material, becomes known to the licensee or registrant, all licensed or registered material in a quantity greater than 10 times the quantity specified in 10 CFR Part 20 Appendix C to 20.1001 to 20.2401 that is still missing at this time.

(2) Written Reports: Each licensee or registrant required to make a report under 333-120-0700(1) shall make a written report to the Agency, within 30 days after making the telephone report, setting forth the following information:

(a) A description of the device or licensed material involved, including kind, quantity, and chemical and physical form; and

(b) A description of the circumstances under which the loss or theft occurred; and

(c) A statement of disposition, or probable disposition, of the device or licensed material involved; and

(d) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(e) Actions that have been taken, or will be taken, to recover the material; and

(f) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of a device or licensed material; and

(g) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

(3) The licensee shall prepare any report filed with the Agency pursuant to 333-120-0700 so that names of individuals who may have received exposure to radiation are stated in a separate and detachable part of the report.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.750
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0710
Notification of Incidents

(1) Immediate notification: Notwithstanding any other requirements for notification, each licensee shall immediately report any event involving a device or licensed radioactive material possessed by the licensee that may have caused or threatens to cause any of the following conditions:

(a) An individual to receive:

(A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(B) An lens dose equivalent of 0.75 Sv (75 rem) or more; or

(C) A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rad) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational annual limit on intake (the provisions of 333-120-0710 do not apply to locations where personnel are not normally stationed during routine operations, such as hotcells or process enclosures)

(2) Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report any event involving loss of control of a device or licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(a) An individual to receive in a period of 24 hours:

(A) A total effective dose equivalent exceeding 0.05 Sv (5 rem); or

(B) An lens dose equivalent exceeding 0.15 Sv (15 rem); or

(C) A shallow-dose equivalent to the skin or extremities exceeding 0.15 Sv (15 rem); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of 333-120-0710 do not apply to locations where personnel are not normally stationed during routine operations, such as hotcells or process enclosures).

(3) The licensee shall prepare any report filed with the Agency pursuant to 333-120-0710 so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Reports made by licensees in response to the requirements of 333-120-0710 must be made as follows:

(a) Licensees having an installed Emergency Notification System shall make the reports required by paragraphs (a) and (b) of 333-120-0710 to the NRC Operations Center in accordance with 10 CFR 50.72; and

(b) All other licensees shall make the reports required by paragraphs (a) and (b) of 333-120-0710 by telephone to the NRC Operations Center and by telegram, mail-gram, or facsimile to the Administrator of the appropriate NRC Regional Office listed in appendix D to part 20.1001-20.2401.

(5) The provisions of 333-120-0710 do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under OAR 333-120-0730.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 453.605 - ORS 453.807
Stats. Implemented: ORS 453.615, ORS 453.635 & ORS 453.750
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03

333-120-0720
Reports of Exposures, Radiation Levels, Leak Tests, and Concentrations of Radioactive Material Exceeding the Limits

(1) Reportable events: In addition to the notification required by OAR 333-120-0710, each licensee shall submit a written report within 30 days after learning of any of the following occurrences:

(a) Any incident for which notification is required by OAR 333-120-0710; or

(b) Doses in excess of any of the following:

(A) The occupational dose limits for adults in OAR 333-120-0100; or

(B) The occupational dose limits for a minor in OAR 333-120-0160; or

(C) The limits for an embryo/fetus of a declared pregnant woman (as defined in OAR 333-100-0005(30)) in OAR 333-120-0170; or

(D) The limits for an individual member of the public in OAR 333-120-0180; or

(E) Any applicable limit in the license; or

(c) Levels of radiation or concentrations of radioactive material in:

(A) A restricted area in excess of any applicable limit in the license; or

(B) An unrestricted area in excess of 10 times any applicable limit set forth in this Division or in the license (whether or not involving exposure of any individual in excess of the limits in OAR 333-120-0180); or

(d) For licensee subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(e) Leaking or contaminated sealed sources in excess of limits in OAR 333-120-0460, shall be reported within five days to the Agency describing the equipment involved, the test results and the corrective action taken.

(f) Erroneous overexposure dosimetry reports that resulted from non-personnel exposures;

(2) Contents of reports: Each report required by 333-120-0720(1) must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(a) Estimates of each individual's dose; and

(b) The levels of radiation and concentrations of radioactive material involved; and

(c) The cause of the elevated exposures, dose rates, or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license conditions; and

(e) For each individual exposed: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

NOTE: With respect to the limit for the embryo/fetus (OAR 333-120-0170) the identifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005(30).

(3) All licensees who make reports under 333-120-0720(1) shall submit the report in writing to the Agency.

(4) The Agency shall prohibit the removal or expungement of any permanent dosimetry report submitted to the licensee or registrant. Evaluated erroneous personnel dose record changes to licensee or registrant records shall be recorded only on Form Z and retained by the licensee or registrant.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.615, ORS 453.635 ORS 453.695

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03

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Adm. Order No.: PH 4-2003
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 3-28-03
Notice Publication Date: 3-1-03
Rules Amended: 333-061-0250, 333-061-0260
Subject: 333-061-0250 is amended to provide further clarification to treatment definitions to bring in line with terminology that is commonly used in the industry. 333-061-0260 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—(503) 731-4320

333-061-0250
Classification of Small Groundwater Systems, Water Distribution Systems and Water Treatment Plants

(1) All water systems shall be classified as small groundwater, water distribution, and water treatment based on size and complexity, as determined by the Department. The classification of these systems and treatment plants are as follows:

(a) Water system is classified as a Small Groundwater System if it has less than 150 connections and uses only groundwater as its source.

(b) Water distribution classification is based on the population served, as follows:

Classification — Population Served
Water Distribution 1 — 1,500 & less
Water Distribution 2 — 1,501 - 15,000
Water Distribution 3 — 15,001 - 50,000
Water Distribution 4 — 50,001 or more

(c) Water treatment plant classification shall be based on a point system assigned to reflect the complexity of treatment as follows:

Item — Points
Treatment system size: (population served or flow whichever is greater)
Population served — 1/10,000 (max 30)
Average daily flow — 1/1 mgd (max 30)
Treatment system water source:
Groundwater — 3
Surface Water or Groundwater Under the Influence of Surface Water — 5
Chemical Treatment/Addition Process:
Fluoridation — 5
Disinfection: —
Ultraviolet — 2
Ammonia/Chloramination — 3
Chlorine — 5
Mixed Oxidants — 7
Ozonization (on-site generation) — 10
PH adjustment
Slaked-Quicklime (Calcium Oxide) — 5
Hydrated Lime (Calcium Hydroxide) — 4
All others (hydrochloric acid, sodium hydroxide, sulfuric acid, sodium carbonate — 1
Coagulation & Flocculation process
Chemical addition (1 point for each type of chemical coagulant or polymer added, maximum 5 points) — 1-5
Rapid mix units:
Mechanical mixers — 3
Injection mixers — 2
In-line blender mixers — 2
Flocculation units:
Hydraulic flocculators — 2
Mechanical flocculators — 3
Clarification and Sedimentation Process
Adsorption Clarifier — 10
Horizontal-flow (rectangular basins) — 5
Horizontal-flow (round basins) — 7
Up-flow solid contact sedimentation — 15
Inclined-plate sedimentation — 10
Tube sedimentation — 10
Dissolved air flotation — 30
Filtration Process:
Single media filtration — 3
Dual or mixed media filtration — 5
Membrane Filtration — 5
Direct — 5
Diatomaceous earth — 20
Slow sand filtration — 5
Cartridge/bag filters — 5
Pressure or greensand filtration — 5
Stability or Corrosion Control:
Slaked-Quicklime (calcium oxide) — 10
Hydrated Lime (calcium hydroxide) — 8
Caustic soda (sodium hydroxide) — 6
Orthophosphate — 5
Soda ash (sodium carbonate) — 4
Aeration: Packed tower, Diffusers — 3
Calcite — 2
Others: sodium bicarbonate, silicates — 4
Other Treatment Processes:
Aeration — 3
Packed tower aeration — 5
Ion exchange/softening — 5
Lime-soda ash softening — 20
Copper sulfate treatment — 5
Powdered activated carbon — 5
Potassium permanganate — 5
Special Processes — 15
Residuals Disposal:
Discharge to lagoons — 5
Discharge to lagoons and then raw water source — 8
Discharge to raw water — 10
Disposal to sanitary sewer — 3
Mechanical dewatering — 5
On-site disposal — 5
Land application — 5
Solids composting — 5
Facility characteristics:
Instrumentation:
The use of SCADA or similar instrumentation systems to provide data with no process control — 1
The use of SCADA or similar instrumentation systems to provide data with partial process control — 3
The use of SCADA or similar instrumentation systems to provide data with complete process control — 5
Clear well Size less than average day design flow — 5

Classification of Water Treatment Plants
Class — Points
Water Treatment 1 — 30 or less
Water Treatment 2 — 31 to 55
Water Treatment 3 — 56 to 75
Water Treatment 4 — 76 or more

(d) In addition to Water Treatment 2 or greater classification, systems using a Conventional Filtration Treatment Plant to treat surface water or groundwater under the influence of surface water shall be classified as Water Filtration and shall have an operator who has a valid Water Treatment 2 or higher certification and a Filtration Endorsement.

Stat. Auth.: ORS 448

Stats. Implemented: ORS 448.450, ORS 448.455, ORS 448.460, ORS 448.465 & ORS 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 4-2003, f. & cert. ef. 3-28-03

333-061-0260
Operator Grade 1-4 Requirements

Grades for operator certification shall be awarded at four (4) levels in each classification, water treatment or water distribution, and subject to requirements as follows:

Classification — Grades
Water Treatment Operator (WT) — 1-4
Water Distribution Operator (WD) — 1-4

(1) Water Treatment or Distribution Grade 1 Operator Certification qualifications;

(a) Education; High School (12 years or equivalent).

(b) Experience; 12 months. Education cannot be substituted for this requirement except that an Associate degree in water technology may be substituted for 6 months experience; and

(c) Successful completion of a Water Treatment or Distribution Grade 1 written examination.

(2) Water Treatment or Distribution Grade 2 Operator Certification qualifications:

(a) Education; High School (12 years or equivalent) plus post high school education and/or experience in one of the following combinations:

(A) 3 years of experience; or

(B) 2 years of experience and 1 year of post high school education; and

(b) Successful completion of the Water Treatment or Distribution Grade 2 written examination.

(3) Water Treatment or Distribution Grade 3 Operator Certification qualifications:

(a) Education; High school (12 years or equivalent) plus post high school education and/or experience in one of the following combinations;

(A) 1 year post high school education and 5 years experience, of which 2.5 years must have been involved in operational decision making; or

(B) 2 years of post high school education and 4 years of experience, of which at least 2 years must have been involved in operational decision making; or

(C) 3 years of post high school education and 3 years of experience, of which 1.5 years must have been in involved in operational decision making; or

(D) For Distribution Grade 3 only, 8 years of experience, of which 2.5 years must have been involved in operational decision making; and

(b) Successful completion of the Water Treatment or Distribution Grade 3 written examination.

(4) Water Treatment or Distribution Grade 4 Operator Certification qualifications:

(a) Must be certified at the Grade 3 level; and

(b) Must have post high school education and/or experience in one of the following combinations:

(A) 4 years post high school education and 4 years of experience, of which 2 years must have been involved in operational decision making; or

(B) 3 years post high school education and 5 years experience, of which 2.5 years must have been involved in operational decision making; or

(C) 2 years post high school education and 6 years experience, of which 3 years must have been involved in operational decision making; or

(D) For Distribution grade 4 only, 10 years of experience, of which 3 years must have been involved in operational decision making; and

(c) Must successfully complete the Water Treatment or Distribution Grade 4 written examination.

(5) Filtration Endorsement qualifications:

(a) Must be certified at Water Treatment Grade 2 or higher; and

(b) Must have one year experience in the operational decision making of a class 2 or higher level Conventional Filtration Treatment Plant; and

(c) Must successfully complete a written examination on conventional filtration treatment.

Stat. Auth.: ORS 448

Stats. Implemented: ORS 448.450, ORS 448.455, ORS 448.460, ORS 448.465 & ORS 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 4-2003, f. & cert. ef. 3-28-03

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Department of Human Services,
Self-Sufficiency Programs
Chapter 461

Adm. Order No.: SSP 7-2003
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 2-1-03, 3-1-03
Rules Adopted: 461-165-0171
Rules Amended: 461-101-0010, 461-115-0651, 461-120-0125, 461-120-0630, 461-130-0305, 461-130-0315, 461-130-0330, 461-135-0082, 461-135-0400, 461-135-0415, 461-135-0530, 461-135-1110, 461-145-0080, 461-145-0130, 461-155-0225, 461-155-0235, 461-155-0250, 461-155-0290, 461-155-0291, 461-155-0295, 461-160-0040, 461-160-0193, 461-165-0030, 461-165-0160, 461-165-0190, 461-170-0015, 461-170-0020, 461-170-0030, 461-175-0207, 461-180-0010, 461-180-0070, 461-190-0360
Rules Repealed: 461-135-1110(T), 461-155-0225(T), 461-155-0235(T), 461-170-0015(T), 461-170-0020(T), 461-170-0030(T)
Subject: Rules 461-101-0010, 461-120-0630, 461-145-0080, 461-145-0130, 461-160-0193, 461-165-0160, 461-175-0207, 461-180-0010, 461-180-0070 and 461-190-0360 are being amended to clarify language that the REF program is for single adults and married couples without children. The REF program does not include children.

Rule 461-115-0651 is being amended to show that actual utility expenses no longer need to be verified when actual costs are used instead of the Utility Allowance.

Rule 461-120-0125 is being amended for several reasons. It is being clarified that for noncitizens who were in the U.S. prior to August 22, 1996 but received their qualified status after that date, the noncitizen will meet the alien status requirement if they can prove that they were lawfully and continuously residing in the U.S. for five years from the last date they entered the U.S. before they received their qualified status. It is also being amended because the ERDC-SBG program is no longer available to applicants regardless if they meet the alien status requirement due to DHS budget cut. It is also being amended to allow qualified noncitizens who have been in the U.S. for at least five years with qualified immigration status to meet the alien status requirement for the Food Stamp program. It is also being amended because victims of a severe form of trafficking under the Trafficking Protection Act of 2002 will be treated in a similar manner as refugees. Thus, they meet the alien status requirements without additional qualification effective April 1, 2003.

Rules 461-130-0305, 461-130-0315 and 461-130-0330 are being amended to correct language that the Refugee program referred to is actually the REF program.

Rule 461-135-0082 is being amended to correct language regarding the eligibility for the Refugee Case Services Program.

Rule 461-135-0400 is being amended to clarify the determination of child care need when two caretaker adults are in the home. The reference to "parent" is being replaced with "adults who are required to be in the filing group".

Rule 461-135-0415 is being amended to add bankruptcy filing as a circumstance which satisfies the program requirement to make a child care copayment. The amendment also removes the conditions placed on the three year waiting period for waiver of copayment requirements.

Rule 461-135-0530 is being amended to correct the definition of commercial boarding homes for the Food Stamp Program.

Rule 461-135-1110 is being filed without change to the current rule.

Rules 461-155-0225, 461-155-0235, 461-155-0250, 461-155-0290, 461-155-0291 and 461-155-0295 are being amended to reflect the annual increase in the federal poverty levels when those levels are published in the Federal Register. These rules includes standards/allowances based on the federal poverty levels. The Temporary version of 461-155-0225 and 461-155-0235 is being replaced with this Certificate (final) version.

Rule 461-160-0040 is being amended to clarify the limitation of child care hours when free care is available includes during school hours.

Rule 461-165-0030 is being amended to specify that families can receive both ERDC and TANF benefits for the children if the needy caretaker relative is not included in the TANF benefit group because of the receipt of SSI.

Rule 461-165-0171 is being adopted to identify how a child care provider receives payment for their services to subsidy families and the length of time payment forms are valid.

Rule 461-165-0190 is being amended to remove options to pay a client directly for short term child care for reasons other than seeking a provider approved to receive payment.

Rules 461-170-0015, 461-170-0020 and 461-170-0030 are being amended so that clients receiving ERDC, FS, MAA, MAF and TANF will not be required to report when their rate of pay changes due to the annual adjustment to the state minimum wage. The Temporary version of these rules is being replaced with this Certificate (final) version.

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.

(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 singles or married couples without children.

(26) REFM or REFM-BAS; Refugee Assistance Medical — Basic. Medical coverage for low-income refugees.

(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; SSP 7-2003, f. & cert. ef. 4-1-03

461-115-0651
Required Verification and When to Verify; FS

(1) Each of the following eligibility factors must be verified when a client initially applies for food stamp benefits. A factor must also be verified when a change to it must be reported (see division 170 of these rules for reporting requirements):

(a) The identity of the applicant and any authorized representative or alternate payee;

(b) Residency;

(c) Alien status;

(d) Social Security Number (SSN) or application for an SSN.

(e) In a case being evaluated for disqualification due to a job quit or reduction of work hours — the reason for the job quit or reduction in hours;

(f) Countable income;

(g) Medical expenses, if they are used as a deduction;

(h) Disability, if a student claims unfitness for employment but the disability is not obvious;

(i) An order to pay child support and the amount actually paid;

(j) Any factor for which the Department has conflicting or incomplete information.

(2) If the client does not provide verification for shelter costs, utility or medical expenses, or court-ordered child support, the claimed expenses are not used to determine the food stamp benefit.

(3) In addition to the verification required by section (1) of this rule, the income for a client in the monthly reporting system must be verified each month.

(4) A client is allowed a minimum of 10 days to provide requested verification.

Stat. Auth.: ORS 411.060, 411.816
Stats. Implemented: ORS 411.111, 411.816
Hist.: AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-120-0125
Alien Status; Not REF or REFM

(1) For purposes of this chapter of rules, a person is a "qualified non-citizen" if he or she is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 251(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) In all programs except the Food Stamp program — a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the United States Immigration and Naturalization Service.

(i) In the Food Stamp program — a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent's family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) The following people meet the alien status requirements:

(a) American Indians born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) Members of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the TANF program, the following people meet the alien status requirements:

(a) A person who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(4) In the BCCM, GA, GAM, MAA, MAF, OHP, OSIPM and SAC programs, a qualified non-citizen meets the alien status requirements if he or she:

(a) Was a qualified non-citizen on or before August 22, 1996;

(b) Was a resident of the United States before August 22, 1996; became a qualified non-citizen after August 22, 1996; resided in the United States continuously for five years immediately prior to the date he or she became a qualified non-citizen; and did not leave the United States between August 22, 1996 and the date he or she became a qualified non-citizen; or

(c) Is a person granted any of the following alien statuses:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) Victims of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(5) In the GA, GAM, OSIP and OSIP programs, qualified non-citizens must also meet SSI criteria for disability. Other non-citizens who were receiving SSI benefits on August 22, 1996, or are receiving SSI benefits based on an application filed before January 1, 1979, also meet the alien status requirement for the programs.

(6) In all programs except TANF, a qualified non-citizen meets the alien status requirement if he or she is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. § 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of a person described in subsection (a) or (b) of this section.

(d) In the FS program only, a qualified non-citizen who meets the requirement in section (9) of this rule.

(7) Except as provided in sections (2), (4) and (6) of this rule, non-citizens who entered the United States or were given qualified non-citizen status on or after August 22, 1996, are ineligible for the BCCM, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status. They meet the alien status requirement following the five-year period.

(8) In the FS program, the following non-citizens meet the alien status requirement:

(a) A person granted any of the following alien statuses—

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) A person granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A victim of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(b) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(c) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(d) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (c) of this section.

(e) A qualified non-citizen who is disabled, as defined in OAR 461-110-0110(4).

(9) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the FS program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include FS, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that he or she has fewer than 40 quarters of coverage, may be provisionally certified for food stamp benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for food stamp benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

[Publication.: Publications referenced are available from the agency.]
Stat. Auth.: ORS 411.060, ORS 411.816, ORS 418.100
Stats. Implemented: ORS 411.060, ORS 411.816, ORS 418.100
Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; 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; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03

461-120-0630
Requirement to Live with a Caretaker or Caretaker Relative

(1) To be eligible for the EXT, MAA, MAF and TANF programs, a child must live with a *caretaker relative*. Documentary evidence is required to show that a client is the father of a *dependent child*.

(2) To be eligible for the ADCM-EA and EA programs, a child must either live with a caretaker relative or have lived with one within the last six months.

(3) To be eligible for ERDC, a child must live with a caretaker.

(4) For the REFM program, the public or private agency with custody of the child is the caretaker of a child under the age of 18.

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 28-1992, f. & cert. ef. 10-1-92; AFS 30-1992(Temp), f. & cert. ef. 10-14-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 7-2003, f. & cert. ef. 4-1-03

461-130-0305
General Provisions

(1) This division of rules establishes requirements for client participation in the employment programs of the Food Stamp, REF and TANF programs. The employment programs are the JOBS, OFSET, and workfare programs.

(2) Clients must provide information necessary for the Department to administer the employment programs. The necessary information includes that needed to determine the client's participation classification (see OAR 461-130-0310) and to assess whether a client had *good cause* (see OAR 461-130-0327) for any failure to meet a requirement of an employment program. If a medical condition is in question, the Department may require the client to provide a medical opinion from an appropriate medical professional.

(3) Terms in italics in this division of rules are defined in this division or elsewhere, as cited.

Stat. Auth.: ORS 411.060 & ORS 411.816
Stats. Implemented: ORS 411.060
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03

461-130-0315
General Requirements, TANF and Refugee Programs

(1) *Mandatory* clients in the REF and TANF programs must do the following:

(a) Complete the assessment process (see OAR 461-190-0161) and provide sufficient information for the Department to determine whether they must participate in an employment program.

(b) Register for an employment program by completing forms provided by the Department. A *mandatory* client who fails to register is ineligible for benefits.

(c) Meet all participation requirements of OAR 461-130-0325.

(2) A *mandatory* client who fails to meet a participation requirement without good cause is subject to disqualification in accordance with OAR 461-130-0330, except that a mandatory client who is exempt is not subject to disqualification but does not receive the incentive payment authorized by OAR 461-135-0210.

Stat. Auth.: ORS 411.060 & ORS 411.816
Stats. Implemented: ORS 411.060
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 7-2003, f. & cert. ef. 4-1-03

461-130-0330
Disqualifications

(1) In the REF and TANF programs, clients may be disqualified for failure to comply with requirements of employment programs. A disqualification is initiated only after the client has had an opportunity to participate in a conciliation process (see OAR 461-190-0231) that includes a determination by the Department of whether the client had good cause for failing to comply. The effects of a JOBS disqualification are progressive. Once a disqualification is imposed, it impacts benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:

(a) There are two months of disqualification for each of the first two levels. Any client who was disqualified for any period of time in the JOBS program prior to July 1, 1996, is treated in this rule as having been disqualified for two months.

(b) At the first level, the penalty each month is a $50 decrease in the TANF payment standard for the need group.

(c) At the second level, the penalty for the third and fourth months of disqualification is removal of the disqualified client from the need group. If the client who caused the disqualification is not in the need group but

remains in the household, the $50 reduction in the payment standard imposed at step one continues and there is no additional penalty at the second level.

(d) At the third level, the penalty for the fifth and all subsequent months of disqualification is ineligibility for the TANF program for the entire need group.

(e) Applicants for TANF and participants in the Assessment program who are disqualified for failure to comply with requirements of an employment program are treated as if they had already been disqualified for two months, except those who have been disqualified for three or more months are treated the same as recipients under this section.

(2) In the Food Stamp program, the effects of disqualifications are progressive. Mandatory clients who fail to meet the requirements of a Food Stamp employment program are removed from the need group until they meet the program requirements and for a minimum of:

(a) For the first failure, one calendar month.

(b) For the second failure, three calendar months.

(c) For the third and subsequent failures, six calendar months.

(3) 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 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-0082
Eligibility for Refugees

(1) Clients are eligible for the Refugee Case Services Program if they:

(a) Have an alien status listed in OAR 461-120-0120;

(b) Entered the United States on or after October 1, 1997;

(c) Live in Clackamas, Multnomah or Washington county;

(d) Have resided in the United States less than eight months or have been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or was granted asylum, counts as the first month; and

(e) Meet the eligibility requirements contained in OAR 461-193-0000 through 461-193-1380.

(2) Clients who are eligible for the Refugee Case Services program are not eligible for TANF.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-0400
Specific Requirements; ERDC

The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules. To be eligible for ERDC, a filing group must meet the requirements of this rule.

(1) For a filing group to be eligible for the ERDC-BAS program, at least one *caretaker* (see OAR 461-120-0610) must receive income from employment, including employment through a work study program. For clients who are in the start-up phase of self-employment, working on commission, or participating in job-related training that is a condition of employment, the requirement to have earned income may be waived for three months.

(2) For the ERDC-SBG program:

(a) At least one caretaker must be a student without a bachelor's degree who is either:

(A) An undergraduate who has obtained a high school diploma or GED and has been formally admitted to a post-secondary institution and registered for or attending at least nine quarter hours — or an equivalent number in a semester system — that count toward graduation; or

(B) A trainee in a short-term, post-secondary training program at an institution that is eligible for federal financial aid.

(b) A *caretaker* who meets the requirements of subsection (a) of this section must attend school for at least:

(A) Three out of four school quarters per academic year;

(B) Two semesters per academic year; or

(C) For trainees in short-term training programs, an equivalent time period.

(c) Students may use ERDC-SBG benefits for school- or employment-related child care needs during an absence from school or during a term in which they are attending school less than full time as defined in subsection (a)(A) of this section if:

(A) They intend to attend school full time the following term; and

(B) The absence or part-time status does not exceed:

(i) One out of four school quarters; or

(ii) For students on the semester system, the summer break period.

(d) Students must maintain good standing according to the standards of the institution they are attending.

(e) Students must complete at least 27 quarter hours — or an equivalent number in a semester system — that count toward graduation each academic year, unless prevented from doing so by circumstances beyond their control.

(f) Participation in the student child care program is limited to a total of six years, unless extended by the Department because of circumstances beyond the student's control.

(3) The family must have an allowable child care need as described in OAR 461-160-0040. If in the filing group there are two adults who are required to be in the filing group, and if one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the group ineligible, except in the following situations:

(a) The unemployed adult is physically or mentally unable to provide adequate child care.

(b) For ERDC-SBG only, the unemployed adult is physically or mentally unable to provide adequate child care, or a student meeting the criteria in section (2) of this rule.

(c) The unemployed adult is unavailable to provide care while participating in requirements of a *case plan* other than requirements associated with post-secondary education.

(4) The caretaker must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.

(5) A client is not eligible for a child care payment in the ERDC program for more than six calendar months if the client is unwilling to obtain for the child a Certificate of Immunization Status.

(6) It is a requirement for eligibility in the ERDC-BAS program that child care is necessary to enable the *caretaker* to remain employed.

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-0415
ERDC Requirement to Make Copay or Satisfactory Arrangements

(1) In the ERDC program, the caretaker is responsible for paying the copayment to the primary provider of child care unless the ERDC filing group received TANF benefits the previous month and the Child Care Billing form was sent to the provider showing no copayment.

(2) If the client has only one provider during a month, that provider is the primary provider. If the client uses more than one provider during a month, the client must designate one as the primary provider. If the copayment exceeds the amount billed by the primary provider, the Department may treat a different provider as the primary provider or split the copayment among the providers who bill for care.

(3) A client who fails to pay a copayment to or to make satisfactory arrangements with the primary provider is ineligible for ERDC if that provider notifies the Department of an overdue copayment within 60 days after the Department issues payment for the month at issue. The period of ineligibility ends in any of the following circumstances:

(a) On the first day of the month in which the client makes the copayment or makes satisfactory arrangements with the provider.

(b) On the first day of the month after three years have lapsed from the date the client failed to make the copayment.

(c) On the first day of the month in which the client provides verification that the copayment debt was discharged by a bankruptcy filing.

(4) The Department will make the payment to a provider if a Child Care Billing form is mailed to the provider prior to the notification described in section (3) of this rule.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060, ORS 411.122
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-0530
People in Adult Foster Care (AFC) and Boarding Houses; FS

(1) Residents of commercial boarding houses are not eligible for food stamps. A person operating the boarding house and his or her filing group may receive benefits separate from the residents. *Commercial boarding house* is defined in 7 CFR 273.1 as a commercial establishment that offers meals and lodging for compensation with the intent of making a profit. The definition does not include federally subsidized housing for the elderly, alcohol or drug treatment centers, group homes, battered persons shelters, or homeless shelters.

(2) Residents of AFC facilities not licensed by the State are not eligible for food stamps. Residents of AFC facilities licensed by the state must apply with their caregiver to be eligible for food stamps, as required by OAR 461-110-0370.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-135-1110
Eligible and Ineligible Students; OHP-OPU

(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; SSP 7-2003, f. & cert. ef. 4-1-03

461-145-0080
Child Support

(1) Child support is income paid (voluntarily, per court order or per administrative order) by a noncustodial parent for a dependent child or minor parent in the financial group. All child support is considered the dependent child's or minor parent's income.

(2) For MAA, MAF, REFM and TANF:

(a) In determining eligibility, except for clients working under a JOBS Plus agreement, count as unearned income all child support received by the Division of Child Support, if continued receipt of the child support is reasonably anticipated. Exclude these payments when determining the benefit amount.

(b) For clients working under a JOBS Plus agreement:

(A) Exclude child support in determining countable income.

(B) Exclude child support when calculating the TANF portion of the benefit equivalency standards.

(C) Count all child support paid directly to the client as unearned income when calculating the wage supplement.

(c) Count as unearned income all other child support payments paid directly to the financial group.

(3) For ERDC, child support is countable unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) For FS, treat child support as follows:

(a) Exclude child support payments the group receives that must be assigned to the Department to maintain TANF eligibility, even if the group fails to turn the payments over to the Department.

(b) Exclude child support payments received by filing groups with at least one member working under a JOBS Plus agreement, except in calculating the supplemental payment per subsection (2)(b) of this rule.

(c) Count all other child support as unearned income.

(d) Exclude payments made by the noncustodial parent to a third party for the benefit of the financial group.

(5) For OHP, count all child support paid directly to the financial group or paid to a third party for the benefit of the financial group as unearned income.

(6) For OSIP, OSIPM and QMB, count all child support paid to the financial group as unearned income. Do not allow an income deduction for child support paid by the financial group.

Stat. Auth.: ORS 411.060, ORS 411.816 & ORS 418.100
Stats. Implemented: ORS 411.060, ORS 411.816 & ORS 418.100
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03

461-145-0130
Earned Income; Treatment

(1) Generally, earned income is countable in determining eligibility for programs, subject to the following specific provisions.

(2) A flexible benefit used to pay for child care or health insurance costs is excluded if it is not reimbursed by the Department or allowed as an earned income deduction. JOBS Plus income is earned income and is treated as follows:

(a) In the TANF program:

(A) JOBS Plus income earned by a FS-PLS or NCP-PLS client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

(C) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.

(b) In the FS program:

(A) JOBS Plus income earned by an NCP-PLS client:

(i) Is counted in determining initial FS eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.

(c) For programs other than FS and TANF, JOBS Plus income is counted.

(d) For all programs, client wages received under the Oregon Employment Department UI JOBS Plus Program are counted as earned income.

(3) In the MAA, MAF, SAC and TANF programs:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(4) In the ERDC and OHP programs, earned income of a child is excluded.

(5) In the FS program, the following types of income are excluded:

(a) The earned income of an individual under the age of 18 years and under the parental control of another member of the household who is:

(A) Attending elementary or high school;

(B) Attending GED classes recognized by the local school district; or

(C) Completing home-school elementary or high school classes recognized by the local school district.

(b) In-kind earned income.

(c) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for clients on active military duty.

(6) In the MAA, MAF, OHP, SAC and TANF programs, earned in-kind income is excluded (see OAR 461-145-0280).

(7) Welfare-to-Work work experience income is treated as follows:

(a) In the MAA, MAF and TANF programs, the income is earned income, and the first $260 is excluded each month.

(b) In the FS and OHP programs, the income is earned income.

Stat. Auth.: ORS 411.060, ORS 411.816 & ORS 418.100
Stats. Implemented:ORS 411.060, ORS 411.816 & ORS 418.100 ORS 411.700
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, 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; SSP 7-2003, f. & cert. ef. 4-1-03

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 2003 federal poverty level. [Table not included. See ED. NOTE.]

(b) The countable income standard for OHP-OP6 is 133 percent of the 2003 federal poverty level. [Table not included. See ED. NOTE.]

(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). [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
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; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03

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; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-155-0250
Income and Payment Standard; OSIP, OSIPM

(1) For OSIP and OSIPM (except OSIP-EPD, OSIPM-EPD and OSIPM-MN) clients in long-term care and in waivered nonstandard living arrangements, the countable income limit standard is 300 percent of the SSI standard. The one-person SSI standard is used for an individual who has no income and is living alone in the community to compute the countable income limit. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD, OSIPM-EPD and OSIPM-MN) adjusted income standard takes into consideration the need for housing, utilities, food, clothing, personal incidentals and household supplies. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The payment standard is used as the adjusted income limit and to calculate cash benefits for non-SSI OSIP clients. The OSIP-AB adjusted income/payment standard includes a transportation allowance. The total standard is: [Table not included. See ED. NOTE.]

(4) The payment standard for SSI/OSIP clients living in the community is either the SIP amount or the ESB amount. The SIP (supplemental income payment) is a need amount added to any other special or service needs to determine the actual payment. The ESB (excess SSI benefit) is a resource amount used to offset special and service need payments:

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than $20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is $20 or more: Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, $20 is added to the SIP amount.

(d) For SSI couples in an AFC, ALF or RCF, an amount is added to each person's SIP entry that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unusual medical expenses (UME), $90 is allowed.

(b) For all other clients, $30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted income limit is 250 percent of the 2003 federal poverty level for a family of one. This 250 percent limit equals $1,871 per month or $22,452 per year.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.070
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-155-0290
Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2003 federal poverty level. [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 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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; 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 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 7-2003, f. & cert. ef. 4-1-03

461-155-0291
Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2003 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.070
Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; 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 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 7-2003, f. & cert. ef. 4-1-03

461-155-0295
Income Standard; QMB-SMB

The adjusted income standard for QMB-SMB is 135 percent of the 2003 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.070
Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; 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 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; 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 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 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-160-0040
Dependent Care Costs; When They are Deductible and When They are Covered

(1) In the ERDC, FS, JOBS, JOBS Plus, MAF, OFSET, REFM and TANF programs, the cost of dependent care can be deductible from a client's income, or may be paid for by the Department, only if all the following are true:

(a) The dependent:

(A) Lives with the filing group.

(B) Is in the care, control and custody of a person in the filing group.

(C) Requires such care.

(b) The dependent care provider:

(A) Is not in the filing group.

(B) Is not the dependent's parent.

(2) In the following programs, the cost of dependent care may be paid for by the Department (is covered) or may be deducted from income subject to the limitations provided in this section. The cost of child care is payable by the Department or is deductible only when free care is not available, such as while the child is in school:

(a) In the ERDC-BAS, REFM and TANF programs, dependent care is covered when care is necessary for the working client to maintain employment (including time required to work, commute or take a meal break). For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(b) In the ERDC-SBG program, dependent care is covered when the care is necessary for a client to continue his or her education, training or employment and the client is attending class, studying, working, commuting or on a meal break.

(c) In the Food Stamp program, dependent care is deductible (see OAR 461-160-0430) when the care is necessary and the client is working, commuting, on a meal break, in training, or participating in pre-employment education.

(3) Child care is not covered in the ERDC-BAS or TANF program if the nature of the caretaker's work does not make it necessary for a person other than the caretaker to provide the care. It is generally unnecessary during a period of time when:

(a) The caretaker works at home, or is self-employed, and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) The caretaker provides child care in a residence; or

(c) The caretaker works for a provider of child care in a residence that is not certified under OAR 414-350-0000 and following.

(4) In the JOBS and OFSET programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0221).

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03

461-160-0193
Determining Eligibility and Calculating Payment; Direct Provider Payments for TANF Child Care

(1) Clients in the TANF program are eligible for direct provider payments for child care (see OAR 461-165-0160) or client-direct payments (see OAR 461-165-0190) if:

(a) The child care cost is deductible under OAR 461-160-0040;

(b) The caretaker relative is employed and is in the financial group. For the purpose of this rule, work study and a job with earnings that are excluded for the TANF program are not considered employment; and

(c) The child meets the age requirements of OAR 461-120-0510.

(2) Payments are limited as follows:

(a) The cost must be allowed by OAR 461-160-0040;

(b) Payment is limited to the rates provided in OAR 461-155-0150;

(c) The direct child care payment is calculated in accordance with OAR 461-160-0300; and

(d) Payment is made only for child care already provided.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.700
Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 22-1992(Temp), f. & cert. ef. 8-10-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 7-2003, f. & cert. ef. 4-1-03

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.

(B) An OSIP-AB benefit group.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSI.

(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; SSP 7-2003, f. & cert. ef. 4-1-03

461-165-0160
Direct Provider Payments; General Information

(1) The Department makes payments on behalf of eligible clients to the providers they select to care for their children. The payments are made directly to the provider unless made directly to the client in accordance with OAR 461-165-0190. To be eligible for payment, a provider must:

(a) Charge Department clients at a rate no higher than the rate charged other customers;

(b) Provide the Department his or her social security number (SSN) or IRS identification number; and

(c) Meet the requirements of OAR 461-165-0180.

(2) Payments to a client's provider are subject to the following limitations:

(a) A payment is made only for child care already provided;

(b) Payment is made for the amount charged to the client but may not exceed the rate authorized in OAR 461-155-0150;

(c) In the ERDC program, no payment will be authorized unless the client has designated a primary provider;

(d) No payment will be made for less than one dollar.

(3) In the ERDC and TANF programs, the Department may issue a payment during a month for which child care is being provided to meet an unexpected need of the provider related to the care of a covered child. The payment may be made if, without the payment, continued care by the same provider would be jeopardized and the client could not immediately obtain child care from another provider.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & ORS 411.122
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2000(Temp) f. 9-27-00, cert. ef. 9-27-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-165-0171
Direct Provider Payments; Payment Forms

(1) In the ERDC, JOBS, OFSET and TANF programs, child care providers must submit claims for child care on the appropriate form. The provider is responsible to obtain the appropriate payment form from the Department and to return the completed form to the Direct Pay Unit of the Department.

(2) No payment will be made for a claim not received by the Department by the last day of the third month after the form was issued unless the Department determines the provider had good cause for returning the form late.

Stat. Auth.: 411.060
Stats. Implemented: 411.060
Hist.: SSP 7-2003, f. & cert. ef. 4-1-03

461-165-0190
Child Care Payments Paid Directly to a Client

The Department may make payments for child care in the ERDC, JOBS, OFSET and TANF programs directly to the client instead of to the provider of child care as follows:

(1) In the initial month of eligibility — to reimburse the client for a payment already made.

(2) For short-term child care for up to 30 consecutive days while the client seeks a listable provider. The 30-day period is measured as follows:

(a) At the time of application, the 30-day period starts when the Department provides the client with the listing form for the child care provider.

(b) If the Department notifies the client that the provider-of-choice is not listed, the 30-day period starts the day after the date of the notice.

(c) If the Department notifies a client that the current provider cannot be listed, the period starts the first day of the month following the month for which the last Child Care Billing form was issued.

(d) If a client has to use an emergency provider, the 30 days start with the first day the emergency provider was used.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 7-2003, f. & cert. ef. 4-1-03

461-170-0015
Changes that Must Be Reported; ERDC

ERDC clients must report:

(1) Changes as required by the rules applicable to the Periodic Review and APR reporting systems.

(2) The following changes within 10 days of occurring. If these changes are reported for another program, they are considered reported for ERDC:

(a) Changes in members of the filing group, and any resulting changes in income.

(b) Changes of address.

(c) Changes in source of income, including the loss of a job, and related changes in the amount of income.

(d) Changes in the rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage.

(e) Changes in child care providers.

(f) For ERDC-SBG, changes in the student caretaker's alien status and student status.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: 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 13-1994, f. & cert. ef. 7-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-170-0020
Changes That Must be Reported; FS, MAA, MAF, TANF

Clients in the FS, MAA, MAF and TANF programs are required to report the changes described in this rule.

(1) Clients must report the following changes within 10 days of occurrence unless the client is required to report the change by section (2) of this rule:

(a) A change in members of the filing group and any resulting change in income;

(b) A change in employment, including getting a job, quitting a job or losing a job;

(c) A change in source of income;

(d) A change in earned income based on hourly wages when the change is due to:

(A) The rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage; or

(B) A change greater than five in the number of hours worked each week when the change is expected to last one month or longer;

(e) A change in earned income, not based on hourly wages, of more than $100 a month;

(f) A change in unearned income, except a change in a public assistance grant, of more than $25;

(g) The acquisition or change in ownership of nonexcluded vehicles;

(h) The sale or receipt of resources that cause total resources to exceed program resource limits;

(i) A change in residence and the shelter costs in the new residence;

(j) A benefit group member's noncompliance with the OFSET program when that person is a mandatory participant; and

(k) A change in the legal obligation to pay child support.

(2) Clients in the monthly reporting system must report changes in income as required by the rules applicable to the Monthly Change Report.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.105
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-170-0030
Changes That Must be Reported; Not ERDC, FS, MAA, MAF, OHP, TANF

(1) In all programs except ERDC, FS, MAA, MAF, OHP, OSIP-EPD, OSIPM-EPD and TANF, clients are required to report within 10 days all changes in income, resources, and circumstances that may affect their eligibility for benefits or the amount of benefits they receive.

(2) In the OSIP-EPD and OSIPM-EPD programs, clients must report the following changes within 10 days:

(a) A change in employment, including obtaining, quitting or losing a job.

(b) A change in source of income.

(c) A change in earned income based on hourly wages when the change is due to:

(A) A change in rate of pay; or

(B) A change greater than five in the number of hours worked each week when the change is expected to last one month or longer.

(d) A change in earned income not based on hourly wages of more than $100 a month.

(e) A change in unearned income, except a change in a public assistance grant, of more than $25.

(f) A change in residence.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03

461-175-0207
Notice Situation; Child Care Benefit Calculation

For decisions concerning ERDC or TANF child care benefits, the Department sends a continuing benefit decision notice when benefits are calculated in accordance with OAR 461-155-0150.

Stat. Auth.: ORS 411.060, ORS 411.105, ORS 411.111 & ORS 411.630
Stats. Implemented: ORS 411.060
Hist.: AFS 6-1993(Temp), f. & cert. ef. 4-6-93; AFS 12-1993, f. & cert. ef. 7-1-93; SSP 7-2003, f. & cert. ef. 4-1-03

461-180-0010
Effective Dates; Adding a New Person to an Open Case

(1) In the following programs, the effective date for adding a person (other than an assumed eligible newborn) to the benefit group is one of the following:

(a) In the GA, OSIP, REF and TANF programs, it is the date on which all eligibility requirements are met and verified. If benefits have been issued for the month and adding the new person would reduce benefits, the person is added the first of the month following the month in which the notice period ends.

(b) In the TANF program, for adding a child to be covered by a provider-direct child care payment, it is the first of the month in which the child is added to the benefit group.

(c) In the EXT, GAM, MAA, MAF, OHP, OSIPM, REFM and SAC programs, it is whichever occurs first:

(A) The date the client requests benefits, if he or she was eligible as of that date;

(B) The date all eligibility requirements are met.

(d) In the ADCM-EA program, a person is added only during the 30-day time frame (OAR 461-135-0320).

(e) In the Food Stamp program:

(A) If adding the person increases benefits, it is the first of the month after the filing group reports the person has joined the household group.

(B) If adding the person reduces benefits, it is the first of the month following the month in which the notice period ends.

(f) In the QMB-BAS and QMB-DW programs, it is the first of the month after the new person has been determined to meet all QMB eligibility criteria and the Department receives the required verification.

(g) In the QMB-SMB program, it is the first of the month in which the new person has been determined to meet all QMB-SMB eligibility criteria and the Department receives the required verification.

(2) In the following programs, the effective date for adding an assumed eligible newborn to the benefit group is one of the following:

(a) In the TANF program, it is:

(A) The date of birth, if all eligibility requirements are met and verified within 45 days after the birth; or

(B) The date all eligibility factors are met and verified, if the verification is completed more than 45 days after the date of birth.

(b) In the EXT, GAM, MAA, MAF, OHP, OSIPM, REFM and SAC programs, it is the date of birth if all the following are true. If any of the following is not true, the newborn is added to the benefit group in accordance with section (1) of this rule.

(A) A request for benefits is made within one year of the birth. A telephone call from the attending physician, another licensed practitioner, a hospital, or the family is considered a request for benefits.

(B) The newborn has continuously lived with the mother since the date of birth.

(C) The mother was receiving EXT, GAM, MAA, MAF, OHP, OSIPM or SAC on the date of birth, even if she is not currently eligible for benefits.

(3) In the ERDC program, the effective date for adding a person to the need group or benefit group is as follows:

(a) If adding the person to the need group will decrease the copay, the effective date is the first of the month after the client reports the person has joined the household.

(b) If adding the person to the need group increases the copay — for instance, because the person receives income — the effective date is the first of the month following the end of the decision notice period.

(c) The effective date for adding a child to the benefit group — that is, covering the cost of their care — is the earliest of the following:

(A) For newborns, the date of birth, if all eligibility requirements are met and verified within 45 days after the birth.

(B) For all other children, the first of the month in which the change is reported, if all eligibility requirements are met and verified within 45 days.

(C) For newborns and other children, if eligibility cannot be verified within 45 days, the effective date is the first of the month in which all eligibility factors are met and verified.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2003, f. & cert. ef. 4-1-03

461-180-0070
Effective Dates; Initial Month Cash Benefits

(1) In the REF and TANF programs, the effective date for the initial month of cash benefits is as follows:

(a) For a client required to participate in the Assessment program, it is the later of the following:

(A) The day the Assessment program ends; and

(B) The 30th day following the date the client requests benefits, if the Department does not receive required verification until after the 30th day.

(b) For a client required to participate in two weeks of Pay-After-Performance, it is the later of the following:

(A) The day all eligibility requirements are met and verified; and

(B) The day the two consecutive weeks of completed applicant JOBS activities started.

(c) For a client not required to participate in the Assessment program (see OAR 461-135-0475) and not subject to OAR 461-135-0180 (Specific Requirements; TANF Pay-After-Performance), it is the day the client meets and verifies all eligibility requirements.

(d) In the TANF program, if the only eligible child is an unborn, it cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(e) For a provider-direct child care payment (see OAR 461-165-0190), it is the first of the month in which TANF benefits begin.

(2) For GA clients who do not need services to maintain themselves in the community, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(3) For OSIP clients who do not need services to maintain themselves in the community, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The date the client requests benefits, if he or she was eligible as of that date;

(b) The date all eligibility requirements are met.

(4) For GA and OSIP applicants who require services to maintain themselves in the community, the effective date for starting cash benefits is whichever of the following occurs last:

(a) The date the service plan is implemented;

(b) The date the client requests benefits.

(5) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group. For benefit groups whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(6) In the ERDC-BAS and ERDC-SBG programs, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made, as long as:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For benefit groups that received TANF within the 30 days before applying for ERDC, the effective date is the first of the month following closure of their TANF benefits.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-

97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03

461-190-0360
OFSET Payments

The Department will authorize payment for the following costs when directly related to a client's participation in the OFSET program:

(1) Not more than $25 a month for transportation and other costs identified on the client's work search agreement. If public transportation is available, the Department may issue to the client bus passes or tickets (whichever is less costly) sufficient to enable the client to participate in the OFSET program.

(2) For all clients except TANF clients who volunteer to participate in OFSET, dependent care costs at the ERDC child care rates and limits of OAR 461-155-0150.

Stat. Auth.: ORS 411.060 & ORS 411.816
Stats. Implemented: ORS 411.060 & ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03

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Certified to be Effective: 4-1-03 thru 6-30-03
Notice Publication Date:
Rules Amended: 461-145-0820, 461-145-0830
Subject: Rule 461-145-0820 is being amended to reference the calculation of deemed income from a noncitizen's sponsor to OAR 461-145-0840 and to show how resources from a noncitizen's sponsor are calculated as deemed resources for a noncitizen for the different programs administered by DHS.

Rule 461-145-0830 is being amended to clarify under what circumstances the assets of a noncitizen's sponsor will not be deemed available to the noncitizen's household. For example, deeming does not apply when there is no legally binding affidavit of support signed; the sponsor is on SSI, TANF or FS; the sponsored noncitizen becomes a naturalized citizen; or the noncitizen worked or can be credited with 40 qualifying quarters of work.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0820
Deemed Assets; Noncitizen's Sponsor

(1) An individual or organization may sponsor the admission of a noncitizen under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154).

(2) An affidavit of support (INS Form I-864) is the agreement between the sponsor and the United States Immigration and Naturalization Service in which the sponsor agrees to provide financial support for the noncitizen so that the noncitizen will not become a public charge.

(3) For all programs except ERDC, REF and REFM, the countable assets of an individual sponsor and the sponsor's spouse are considered countable assets of the noncitizen as provided in this section and the following rules. The sponsor's assets are considered available to the noncitizen whether or not the sponsor lives in the same household as the noncitizen. The assets of the sponsor's spouse are considered available only when the spouse lives in the sponsor's household.

(4) The income deemed available to the noncitizen is calculated according to OAR 461-145-0840.

(5) The value of the resources deemed available to each noncitizen is determined as follows:

(a) The value of the countable resources of the sponsor and the sponsor's spouse is determined according to the rules of the program the noncitizen applies for.

(b) In the Food Stamp program only, $1,500 is deducted from the value.

(c) The remaining value is divided by the number of noncitizens sponsored by the individual or couple. The result is the value of the resources deemed available to the noncitizen.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.700 & ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f, & cert. ef. 4-1-03 thru 6-30-03

461-145-0830
When to Deem the Assets of a Noncitizen's Sponsor

The assets of a sponsor and the sponsor's spouse are considered the assets of the sponsored non-citizen unless:

(1) The sponsor has not signed a legally binding affidavit of support, for instance an INS form I-864 or I-864A;

(2) The sponsor is unable to meet the non-citizen's needs. A sponsor who receives Food Stamp, TANF or SSI benefits is presumed unable to meet the non-citizen's needs;

(3) The sponsor is deceased. The estate of a deceased sponsor is not responsible for the non-citizen;

(4) The sponsored non-citizen claims indigence;

(5) The sponsored non-citizen is a battered immigrant spouse, battered immigrant child, immigrant parent of a battered child or an immigrant child of a battered parent, as long as the battered non-citizen does not live in the same household as the person responsible for the battery;

(6) The sponsored non-citizen does not meet the alien status requirement for the program for which he or she applies;

(7) The sponsored non-citizen becomes a naturalized citizen; or

(8) The sponsored non-citizen can be credited with 40 qualifying quarters of work.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.700 & ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1993(Temp), f. & cert. ef. 2-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 8-2003(Temp), f, & cert. ef. 4-1-03 thru 6-30-03

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Adm. Order No.: SSP 9-2003(Temp)
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03 thru 6-30-03
Notice Publication Date:
Rules Amended: 461-125-0370
Subject: Rule 461-125-0370 is being amended to clarify policy with regard to the Code of Federal Regulations that govern disability determinations made by the Social Security Administration and are binding on the State of Oregon.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-125-0370
Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), clients meet the requirement to be disabled if any of the following is true:

(a) They are receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as their SSDI or SSI eligibility continues.

(b) They were eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) They are found by the Department to meet or equal the listing of impairments found in 20 C.F.R. 404, Subpart P, Appendix 1 or to meet the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI.

(d) They have been determined by the Social Security Administration (SSA) to meet or equal the listing of impairments found in 20 C.F.R. 404, Subpart P, Appendix 1 or to meet the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI.

(2) Disability determinations made by SSA are binding on the Department except for the following situations (see 42 C.F.R. § 435.541(c)(4)):

(a) The client alleges a new medical condition; or

(b) The client alleges that their condition has changed or deteriorated, it has been more than 12 months since SSA issued a denial, and the client is not currently appealing that denial.

(3) In the OSIP-EPD and OSIPM-EPD programs, disabled means having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) per 20 CFR part 404.

(a) A determination by SSA that finds the individual disabled will be accepted by the Department, or

(b) If there is no currently effective SSA determination finding the individual disabled, the case will be referred to the Department's central office for a disability determination using the standards of 20 C.F.R. Parts

404 and 416 and considering all relevant medical and vocational information.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 411.060, ORS 411.070 & ORS 414.042
Stats. Implemented: ORS 411.060, ORS 411.070 & ORS 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; 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; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03

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

Adm. Order No.: SPD 6-2003(Temp)
Filed with Sec. of State: 3-20-2003
Certified to be Effective: 3-20-03 thru 6-3-03
Notice Publication Date:
Rules Amended: 411-015-0015
Rules Suspended: 411-015-0015(T)
Subject: This amendment, effective March 20, 2003, more definitively specifies that persons with developmental disabilities who are eligible to receive waver services through the county developmental disability (DD) service offices are not eligible to receive services under the home and community-based care waiver for aged and physically disabled adults. This policy is based on federal rules prohibiting individuals eligible for services under one waiver (i.e. the DD waiver) to be served under another waiver. Originally, this temporary rule was 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. Subsequently, on March 4, 2003, Legislative action passed HB 5075, which restored two survival priority levels (10 and 11), which were previously scheduled to be cut effective April 1, 2003. This amendment replaces temporary amendment of OAR 411-015-0015, previously effective on March 12, 2003.
Rules Coordinator: Pam Rouske—(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 (11) will be served from April 1, 2003 thereafter, or unless otherwise stated by future amendments to this rule.

(2) Persons eligible for Oregon Project Independence funded services if they meet at least one of the priority levels (1) through (18) of OAR 411-015-0010.

(3) Persons needing Risk Intervention Services in areas designated to provide such services. Persons with the greatest priority under OAR 411-015-0010 will be served first.

(4)(a) Persons sixty-five years of age or older determined eligible for Developmental Disability services or having a primary diagnosis of mental illness are eligible for nursing facility and community based care services if they meet Sections (1), (2), or (3) of this rule and are not in need of specialized mental health treatment services or other specialized Department residential program intervention as identified through the PASARR or mental health assessment process.

(b) Persons under sixty-five years of age determined eligible for developmental disability services or having a primary diagnosis of mental illness are not eligible for Department nursing facility services unless determined appropriate through the PASARR process.

(c) Persons under sixty-five years of age whose primary diagnosis and primary need for service is due to mental illness or have been determined eligible for developmental disability services are not eligible for Title XIX Home and Community Based Care Waivered Services paid for under the Department's 1915(c) Waiver.

Stat. Auth.: ORS 410.060, ORS 410.070 & ORS 411
Stats. Implemented: ORS 410.070
Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 5-1986, f. & ef. 4-14-86; SSD 9-1986, f. & ef. 7-1-86; SSD 12-1987, f. 12-31-87, cert. ef. 1-1-88; SSD 12-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 21-1991, f. 12-31-91, cert. ef. 1-1-92; Renumbered from former 411-015-0000(4); SSD 1-1993, f. 3-19-93, cert. ef. 4-1-93; SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SDP 3-2003(Temp), f. 2-14-03, cert. ef. 2-18-03 thru 6-3-03; SPD 5-2003(Temp), f. & cert. ef. 3-12-03 thru 6-3-03; SPD 6-2003(Temp), f. & cert. ef. 3-20-03 thru 6-3-03

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Adm. Order No.: SPD 7-2003
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 2-1-03
Rules Adopted: 411-310-0010, 411-310-0020, 411-310-0030, 411-310-0040, 411-310-0050, 411-310-0060, 411-310-0070
Subject: The Developmental Disability Community Housing rules are adopted to authorize 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 development 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.
Rules Coordinator: Pam Rouske—(503) 945-6954

411-310-0010
Statement of Purpose and Statutory Authority

(1) The purpose of these rules is to:

(a) Prescribe the operational procedures for the Developmental Disabilities Community Housing Program and the Community Housing Fund; and

(b) Implement and describe the acquisition, construction, rehabilitation, maintenance, and disposal of Community Housing established under the authority of ORS 427.330 to 427.345.

(2) Statutory Authority. These rules are authorized by ORS 427.330 through 427.345.

Stat. Auth. ORS 409.050, ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0020
Definitions

(1) "Adult" means an individual 18 years or older with a Developmental Disability.

(2) "Care and Custody" means minimum services (which may include mortgage, insurance, utilities, phone) and property protection for vacant homes in which the Department has a financial interest.

(3) "Care Provider" means an individual, Family Member or entity that provides care for a person or persons with a Developmental Disability.

(4) "Change Order" means requested additional work on an approved project, which may increase the cost of the project.

(5) "Child" means an Individual with a Developmental Disability who is less than 18 years of age.

(6) "Community Housing" means real property, including but not limited to buildings, structures, improvements to real property and related equipment, that is used or could be used to house and provide care for Individuals with a Developmental Disability. "Community housing" includes a single-family home or multiple-unit residential housing that an Individual with a Developmental Disability shares with other inhabitants, including but not limited to Family Members, Care Providers or friends. "Community housing" does not include the Eastern Oregon Training Center.

(7) "Community Housing Trust Account" means a dedicated account within the Developmental Disabilities Community Housing Fund which includes proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department and used as a state training center, of which 95% of the sale or transfer amount will remain in the account in perpetuity. Interest earned in the account and 5% of the sale or transfer proceeds may be used for community housing.

(8) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate Community Housing. "Construct" includes the installation of equipment and preparation of a site for Community Housing.

(9) "Contract Work Order" means a document identifying specific responsibilities of a contractor and the Department concerning necessary work on Community Housing occupied by persons with Developmental Disabilities.

(10) "Contractor" means an individual or business that is registered with the Oregon Construction Contractors Board who, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, any building or improvement attached to real estate or any part thereof. "Contractor" includes general contractors and specialty contractors as defined in OAR 812-002-0100.

(11) "Department" means the State of Oregon, Department of Human Services, Seniors and People with Disabilities, unless otherwise noted.

(12) "Development Project" means construction of new Community Housing or major renovation of Community Housing, where persons with Developmental Disabilities live or intend to live and receive services. Specific responsibilities are defined in a Facility Plan.

(13) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition or severe physical impairment that requires training similar to that required by mentally retarded persons, and the disability:

(a) Originates before the person attains the age of 22 years;

(b) Has continued or can be expected to continue indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society.

(14) "Developmental Disabilities Community Housing Fund" means a fund with the State Treasury, separate and distinct from the General Fund, which receives appropriations to the Department to pay expenses incurred in carrying out the provisions of ORS 427.330 and 427.335. Interest earned accrues to the fund.

(15) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in Community Housing.

(16) "Facility Plan" means a detailed scope of work, including costs, submitted by a Contractor, Housing Provider or Care Provider to the Department for approval, on a form prescribed by the Department, for the construction or major remodel of Community Housing for a person or persons with Developmental Disabilities.

(17) "Family Member" means an individual who is related by blood or marriage to an Individual with a Developmental Disability.

(18) "Financial Assistance" means a grant or loan from the Department to pay expenses incurred in providing Community Housing.

(19) "Housing Authority" means a public corporation created and chartered by the governmental authority of a city or county to provide safe, decent, sanitary and affordable housing for persons or families of lower income residing within the geographical jurisdiction of the Housing Authority.

(20) "Housing Provider" means an individual or entity that provides Community Housing.

(21) "Individual" means a person with a Developmental Disability for whom services are planned or provided.

(22) "Minor Housing Project" means small construction projects (under $10,000.00) performed in residences that are leased or owned by organizations, Individuals, Care Providers or private parties where persons with Developmental Disabilities reside and receive services or where services are planned.

(23) "Mortgage" means a conditional and time limited pledge of property to the Department in exchange for funds expended to build, renovate or adapt real property for use by person(s) with Developmental Disabilities.

(24) "Owner" means the organization or person owning the residence where Individuals with Developmental Disabilities live or plan to live and receive services. Owners may include but are not limited to Family Members, licensed service providers, foster providers or housing development organizations.

(25) "Region" means a group of counties organized to provide efficient delivery of various services to persons with Developmental Disabilities.

(26) "Regulatory Agreement" means a restrictive covenant running with real property that specifies the intent to use that property for the benefit and enjoyment of persons with Developmental Disabilities for a length of time according to terms stated in the agreement.

(27) "Scope of Work" means a detailed outline of work to be performed, including any necessary drawings, suitable for Contractor bidding, and including all information that might be required to obtain a building permit.

(28) "Seniors and People with Disabilities means Seniors and People with Disabilities within the Department of Human Services.

(29) "Specifications" means a detailed list of the type and quality of materials (which may include brand names and model numbers) and standards of work for bidding or performing construction activities.

(30) "Surplus Property" means personal property, real property, vehicles and equipment excess to the State's needs that can be used in the activity of providing Community Housing.

(31) "Trust Deed" means an instrument which transfers (conveys) legal title of a property to a trustee, for the benefit of the beneficiary or grantee named therein, to be held pending fulfillment of obligations secured by such instrument.

(32) "Trust Deed Note" means a promissory secured by a Trust Deed.

Stat. Auth. ORS 409.050, ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0030
Development Projects

(1) Eligible Projects. Eligible development projects will be approved by the Department and meet one or more of the following criteria:

(a) Be initiated by the Department to fulfill an identified housing need for Individuals whose services are licensed and funded by the Department;

(b) Be required by implementation of new services for Individuals eligible for funding by the Department;

(c) Be identified by the Department as necessary for the health and safety of a Child or Adult with Developmental Disabilities whose services are funded by the Department;

(d) To provide housing adaptations as part of a plan to develop or change services for an Individual(s) requiring an immediate change in living circumstances due to a change in Care Providers or service needs.

(e) Be requested by an Individual, Family Member, Care Provider, or Housing Provider to fulfil identified housing needs that are necessary for the health, welfare, and safety of an Individual, or to enable an Individual to function with greater independence in the home;

(2) Ownership of properties. Individuals, families, service providers, not-for-profit Housing Providers, for-profit corporations or partnerships, or government entities, including the Department may own properties.

(3) Types of Development. Development projects will be developed in one of the following ways:

(a) The Department may procure services from qualified not-for-profit Housing Providers or Housing Authorities that have successfully responded to a Request for Proposals. These Housing Providers will manage Development Projects as described in contracts with the Department.

(b) The Department may procure services from pre-qualified building or specialty Contractors licensed by the Construction Contractors Board or the Landscape Contractors Board (pursuant to ORS 279.039 through 279.045) for work under $75,000. As outlined in (3)(a)(A) through (E) of this rule, the Department will establish a list of eligible Contractors every two years who desire to provide cost estimates for work. The procedures for establishing a list of eligible contractors will:

(A) Identify the means by which advertisement will be made;

(B) Identify qualifications and other data requested from interested Contractors on a form provided by the Department;

(C) Describe the criteria for qualifying Contractors;

(D) Describe the process for Contractor selection for designated work; and

(E) Identify contract terms including payment procedures.

(c) The Department may procure services through the formal bidding process (pursuant to ORS Chapter 279) for work over $75,000.

(4) Requirements for Development Projects. Development projects will meet the following requirements:

(a) Work will be authorized by approval of a Facility Plan that is submitted on a form approved by the Department. The Facility Plan will include: legal description and address of the project; Specifications; an itemized project budget; start, finish and occupancy dates; and evidence that the project is insured as required by the Department.

(b) Projects will comply with the provisions of ORS 279.348 through 279.365 when applicable.

(c) When property is owned by entities other than the Department, a Mortgage or Trust Deed granted by the owner in favor of the Department for the amount of the estimated cost of the completed project will be required to protect the financial interest of the State of Oregon. If property acquisition is part of the project, the purchase price of the property will be

included in the encumbrance. Required documents will be recorded prior to beginning construction. Upon project completion, the amount of the encumbrance will be adjusted to reflect actual cost.

(d) The Department may also require that the owner of a residence which has been constructed or remodeled for persons with Developmental Disabilities enter into a Regulatory Agreement recorded with the property specifying a period of time during which the property must be used as housing for Individuals with Developmental Disabilities.

(e) Work will be completed according to the Facility Plan, including any change orders, approved by the Department on or before the completion date identified on the Facility Plan, unless changed by mutual agreement.

(f) Final payment will be made when all final inspections have been successfully completed, an occupancy permit issued according to local regulations and ordinances (if applicable), and the project accepted as complete following a walk through by the Department.

(g) The Development Project will comply with the provisions of ORS 279.348 through 279.365 when applicable.

Stat. Auth. ORS 409.050, ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0040
Minor Housing Projects

(1) Minor housing projects or equipment, costing less than $10,000, may be requested by Care Providers, Housing Providers or initiated by the Department to address a housing need of Individuals receiving services approved and funded by the Department.

(2) The Department may procure services from qualified not-for-profit Housing Providers that have successfully responded to a Request for Proposals. These Housing Providers will manage Minor Housing Projects as described in contracts with the Department.

(3) The Department may procure services from pre-qualified building or specialty Contractors (pursuant to ORS 279.039 through 279.045) licensed by the Construction Contractors Board or the Landscape Contractors Board as described in OAR 411-310-0030(3)(b).

(4) The Department may procure personal services from Care Providers, Housing Providers or Contractors directly through negotiation when the contract price, including Change Orders, is not more than $5,000.

(5) Project Approval. Minor Housing Projects will be approved by the Department on the basis of a Contract Work Order that identifies the project address, approved Contractor, Scope of Work, Specifications, itemized budget, completion date, person responsible for project inspection, and payment method.

(6) State's Financial Interest. When the total cost of equipment or a housing adaptation, including change orders, is greater than $5,000, the Department may secure the interest of the State by appropriate means, including, but not limited to, Mortgages, Trust Deeds and promissory notes. Security agreements will be executed prior to the beginning of construction.

(7) The Department may expend funds for Minor Housing Projects or Equipment through any legal payment mechanism. The Department will expend funds only on the basis of requests that include invoices for work, materials or equipment.

Stat. Auth. ORS 409.050, ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0050
Maintenance of Qualified Properties

(1) Qualification. The following projects qualify for funding of maintenance and repair:

(a) The Department may pay for maintenance and repair of qualified homes in order to preserve and maintain the benefit of housing assets in which the State has a financial interest. Qualified homes are residences that were constructed or retrofitted for individuals leaving Fairview Training Center as part of the Community Integration Project (CIP), in which persons with Developmental Disabilities live and receive licensed services, and which were financed by State of Oregon General Obligation Bonds.

(b) The Assistant Director of Seniors and People with Disabilities, may designate other homes to be included in the maintenance and repair program if they meet all the following criteria:

(A) Significant expenditure of State funds;

(B) Specialized features for persons with Developmental Disabilities; and

(C) State control of the property through State ownership or through security agreements for a minimum of 30 years.

(2) Property Management Contracts. The Department will enter into Property Management Contracts with not-for-profit Housing Providers or Housing Authorities owning properties that qualify for maintenance and repair funding for the purpose of managing the property.

(3) Property Management Procedures. Qualified homes will be managed according to procedures written and distributed by the Department to owners of the homes. The procedures will outline maintenance and repair, Care and Custody, and renovations of qualified homes. The procedures may be updated as necessary by the Department.

(4) The Department may procure services from pre-qualified building or specialty Contractors as described in OAR 411-310-0030(3)(b).

(5) The Department may procure personal services as described in OAR 411-310-0030(4).

(6) The Project will comply with the provisions of ORS 279.348 through 279.365 when applicable.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0060
Developmental Disability Housing Fund

(1) Composition of the Fund. There will be a Developmental Disabilities Community Housing Fund established with the State Treasury. The Fund will be comprised of the following components:

(a) Housing development account;

(b) Property management account;

(c) Debt service account;

(d) Community Housing Trust Account.

(2) With the exception of the Community Housing Trust Account, funds may be transferred from one account to another. Interest earned is retained within the Housing Fund as assigned to the account where it was earned.

Stat. Auth. ORS 409.050, ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

411-310-0070
Surplus Property

(1) Surplus real property, personal property, or equipment owned or controlled by the Department may be sold or ownership transferred to Individuals, Care Providers (including families), not-for-profit Housing Providers, or government entities for the purpose of increasing the quality and quantity of Community Housing for person(s) with Developmental Disabilities. Methods of distribution include but are not limited to:

(a) Fixed price real estate sale;

(b) Sealed bid sales;

(c) Transfer of ownership; or

(d) Public auction.

(2) Conduct of auctions and/or sealed bid sales:

(a) The Department will advertise the date, time and location of public auction or sealed bid sales. Interested persons may inspect property offered for sale at the time and place specified in the public invitation to bid;

(b) The Department reserves the right to reject any and all bids regarded as not in the best interests of the State;

(c) All items will be sold to the highest bidder. All property will be offered "As is — Where is" with no warranty or other guarantee as to its condition or fitness for use. A purchaser or disappointed bidder will have no recourse against the State, the Department, or any of their respective officers, employees or agents. All sales will be final.

(3) Payment:

(a) Full payment must be made on the day of the sale for all purchases except vehicles or other titled equipment. For titled equipment, a ten-percent down payment is required on the day of the sale. The time limit for making full payment and the place where payment will be made will be specified in public invitation to bid;

(b) Payment by personal check for amounts of $1,000 or less may be accepted, at the discretion of the Department, when presented with two (2) pieces of acceptable identification, one of which must be a "photo ID". Other acceptable identification may include major credit cards, a valid driver's license, or valid voter's registration card. The Department reserves the right, in its discretion, to refuse any tender of payment by personal check and, further, the right to require that payment be made by cash, cashier's check or money order.

(c) Payment by personal check for amounts exceeding $1,000 may be accepted, at the absolute discretion of the Department, when presented with two (2) pieces of acceptable identification, one of which must be a "photo

ID" together with a letter from the financial institution on which the check is drawn guaranteeing payment of the full amount of the check. The Department reserves the right, in its discretion, to refuse any tender of payment by personal check and, further, the right to require that payment be made by cash, cashier's check or money order.

(4) Claiming Items Purchased:

(a) Items not paid in full by the time specified in the sales terms and conditions will be cancelled and bid security forfeited.

(b) Property paid for, but not claimed within the time specified in the sales terms and conditions will be considered abandoned and ownership will default to the State, unless prior approval is obtained from the Department.

(c) Title to personal property sold will be transferred to the purchaser when full payment has been made.

(d) Proceeds from the sale of surplus personal property will be deposited in the Community Housing Fund.

(5) Transfer of Ownership. The Department may transfer ownership of property or equipment to Individuals, Care Providers (including families), not-for-profit Housing Providers, or government entities. Property or Equipment acquired through this means will be used for the purpose of providing care, or maintaining a program that provides care or housing for persons with Developmental Disabilities. The recipient may not sell the equipment for a period of six months following sale. The following information concerning the equipment will be supplied to the Department on a form approved by the Departmen:.

(a) The name of the person or organization acquiring the equipment;

(b) A description of the equipment;

(c) The location where it will be used;

(d) An estimate of the value of the equipment.

(6) The equipment will remain with the real property unless it was modified or designed for a specific Individual's use, in which case it will move with the individual if his or her residence changes.

(7) The care provider will notify the Department if the equipment ceases to be used for the approved purpose. The Department may recover the property at its discretion.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 7-2003, f. & cert. ef. 4-1-03

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Adm. Order No.: SPD 8-2003
Filed with Sec. of State: 4-1-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 2-1-03
Rules Adopted: 411-315-0010, 411-315-0020, 411-315-0030, 411-315-0040, 411-315-0050, 411-315-0060, 411-315-0070, 411-315-0080, 411-315-0090, 411-315-0100
Subject: The Developmental Disabilities Housing Trust Account 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.
Rules Coordinator: Pam Rouske—(503) 945-6954

411-315-0010
Statement of Purpose and Statutory Authority

(1) Purpose. These rules prescribe standards, responsibilities and procedures for operation of the Developmental Disabilities Housing Trust Account. The Community Housing Trust Account provides grants to perform construction activities and provide equipment in homes where children or adults with Developmental Disabilities live that enhance their opportunities to achieve well-being through community living.

(2) Statutory Authority. These rules are authorized by ORS 427.330 through 427.345.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0020
Definitions

(1) "Adult" means an individual 18 years or older with a Developmental Disability.

(2) "Care Provider" means an Individual, Family member or entity that provides care for a person or persons with a Developmental Disability.

(3) "Change Order" means requested additional work on an approved project, which may increase the cost.

(4) "Child" means an Individual with a Developmental Disability who is less than 18 years of age.

(5) "Community Housing" means real property, including but not limited to buildings, structures, improvements to real property and related equipment that is used, or could be used, to house and provide care for individuals with mental retardation or other Developmental Disability. "Community Housing" includes a single-family home or multiple-unit residential housing that an Individual with a Developmental Disability shares with other inhabitants, including but not limited to Family Members, Care Providers or friends. "Community Housing" does not include the Eastern Oregon Training Center.

(6) "Community Housing Trust Account" or "Trust Account" means an account within the Developmental Disabilities Community Housing Fund which includes proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department and used as a state training center, of which 95% of the sale or transfer amount will remain in the account in perpetuity. Interest earned in the account and 5% of the sale or transfer proceeds may be used for Community Housing.

(7) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate. "Construct" includes installation equipment and preparation of a site.

(8) "Contractor" means an individual or business that is registered with the Oregon Construction Contractors Board who, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, any building or improvement attached to real estate or any part thereof. "Contractor" includes general contractors and specialty contractors as defined in OAR 812-002-0100.

(9) "Department" means the State of Oregon, Department of Human Services, Seniors and People with Disabilities, unless otherwise noted.

(10) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition or severe physical impairment that requires training similar to that required by mentally retarded persons, and the disability:

(a) Originates before the person attains the age of 22 years;

(b) Has continued or can be expected to continue indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society.

(11) "Developmental Disabilities Community Housing Fund" means a fund in the Oregon State Treasury, separate and distinct from the General Fund, in which funds are deposited and disbursed to the Department to pay expenses incurred in carrying out the provisions of ORS 427.330 and 427.335. Interest earned accrues to the fund.

(12) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in Community Housing.

(13) "Family Member" means a person who is related by blood, marriage, or legal adoption to an Individual with a Developmental Disability; or is in a domestic relationship where partners share:

(a) A residence;

(b) Joint responsibility for the household in general (e.g. child-rearing, maintenance of the residence, basic living expenses);

(c) Joint responsibility for supporting a member of the household with disabilities related to one of the partners by blood, marriage, or legal adoption.

(14) "Financial Assistance" means a grant or loan to pay expenses incurred to provide Community Housing.

(15) "Grievance" means a formal or informal complaint from an individual or care provider regarding the disposition of a funding request for a Trust Fund Account project.

(16) "Grievance Officer" means an employee of the Department appointed by the Assistant Director of Seniors and People with Disabilities that hears a formal Grievance and makes a recommendation for determination to the Assistant Director of Seniors and People with Disabilities.

(17) "Housing Provider" means an individual or entity that provides Community Housing.

(18) "Individual" means a person with Developmental Disabilities for whom services are planned or provided.

(19) "Mortgage" means a conditional and time limited pledge of property to the Department in exchange for funds expended to build, renovate or adapt real property for use by person(s) with Developmental Disabilities.

(20) "Owner" means the organization or person owning the residence where persons with Developmental Disabilities live or plan to live and receive services. Owners may include, but are not limited to: families, licensed service providers, foster providers or housing development organizations.

(21) "Region" means a group of counties organized to provide efficient delivery of various services to persons with Developmental Disabilities.

(22) "Scope of Work" means a detailed outline of work to be performed, including any necessary drawings suitable for contractor bidding, and including all information that might be required for obtaining a building permit.

(23) "Seniors and People with Disabilities" means Seniors and People with Disabilities within the Department of Human Services.

(24) "Specifications" means a detailed list of the type and quality of materials (which may include brand names and model numbers) and standards of work necessary for bidding or performing work.

(25) "Support Plan" means a written document describing the assistance Individuals require to maintain or increase independence and achieve well-being through community living.

(26) "Trust Deed" means an instrument which transfers (conveys) legal title of a property to a trustee, for the benefit of the beneficiary or grantee named therein, to be held pending fulfillment of obligations secured by such instrument.

(27) "Trust Deed Note" means a promissory note secured by a Trust Deed.

(28) "Trust Advisory Committee" means an advisory committee consisting of Individuals, Family Members, advocates, Care Providers, case managers and Housing Providers that make recommendations to the Department about policy and procedures concerning the operation of the Community Housing Trust Account.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0030
Eligible Recipients, Residences and Projects

(1) Non-discrimination. All eligible individuals will have access to resources governed by this rule, within available resources. Access to service will not be restricted due to race, color, creed, national origin, citizenship, age, income or duration of Oregon residence.

(2) Eligible recipient. An Oregon resident, Child or Adult, with a Developmental Disability, eligible for services prescribed by ORS 430.610 or a not-for-profit Housing Provider under conditions described in OAR 411-315-0050(3) are eligible recipients.

(3) Eligible residence. Any primary residence that is not a licensed site for services, where a person with a Developmental Disability resides or intends to reside is eligible as a location for funding. The residence may be owned by the person with a Developmental Disability, Family Member, Care Provider, a corporation, government entity, partnership or private party.

(4) Eligible housing adaptations and equipment. Dwelling adaptations and equipment eligible for funding will meet the following criteria:

(a) Be necessary to ensure the health, welfare, and safety of the Individual in the home or enable the Individual to function with greater independence in the home;

(b) Be identified in a Support Plan;

(c) Be a cost-effective solution to the support needs the adaptation is intended to address as determined by the Department.

(5) Determination of cost effectiveness will consider the wishes of the Individual and Care Provider and be based on:

(a) Cost evaluation of alternative ways to accomplish the requested housing support;

(b) Commonly accepted standards of residential construction;

(c) Current cost data formatted according to the Construction Specifications Institute; and

(d) Average cost of commercially manufactured equipment and specialty products.

(6) Application may be made to the Community Housing Trust Account for adaptations that are contingent on securing other funds for a project. Approval of these projects will include a final date for project completion and disbursal of funds. If funds are not disbursed by the agreed upon date, and arrangements for an extension have not been made, the approval will be withdrawn. Approval and disbursal of funds will be subject to the same rules and conditions as other projects.

(7) Funds from the Housing Trust Account may not be used for rental assistance, routine maintenance and repair, or to make adaptations or improvements to the home that are not consistent with the authorized purposes of the program.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0040
Housing Trust Account Income and Expenditures

(1) Income. The Community Housing Trust Account consists of revenue from the sale, lease or transfer of any state training center, and other funds allocated by the Department of Human Services. The funds will be deposited in a designated account with the Oregon State Treasury. Interest earned by funds deposited in the Account will accrue to that Account.

(2) Expenditures. The Department may expend any earnings credited to the Account, including interest earned on funds deposited in the Account and any income from the lease of surplus property by the Department. In addition, the Department may expend five percent (5%) of the total sale price of any state training center that is designated to the account through a purchase agreement.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0050
Allocation of Funds

(1) The Department will determine the amount of money to be allocated for Trust Account projects annually based on recommendations by the Trust Advisory Committee.

(a) The allocation will be designated by Region in consideration of:

(A) The number of adults and children with Developmental Disabilities in each Region; and

(B) Priorities for funding established by the Department in consultation with the Trust Advisory Committee.

(b) All county Developmental Disabilities offices and Regional offices will be notified of the funds available annually.

(2) The Department will reallocate funds unencumbered or unspent by Regions annually on July 1. Allocation amounts and remaining funds will be published on the Department's web site and will be updated quarterly.

(3) Based on recommendation of the Trust Advisory Council, the Department may designate a portion of the Community Housing Trust Account allocation that was not encumbered or disbursed in the previous fiscal year to fund grants to not-for-profit Housing Providers for predevelopment activities for larger projects. Allocation of these funds will be statewide, and publicized on the Department's web site. Proposals must be consistent with the mission of the program and may be used for the following activities:

(a) Architectural design;

(b) Environmental studies;

(c) Appraisals;

(d) Federal or State application fees;

(e) Securing property; or

(f) Other development costs approved by the Department.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0060
Application/Award/Disbursement Procedures

(1) Notification. The Department will write and publish procedures for making application for funding from the Housing Trust Account.

(a) Procedures will include:

(A) A description of the program and eligibility;

(B) The application form and instructions for completion;

(C) Proposal evaluation criteria; and

(D) A description of the grievance procedure.

(b) The Department will make effort to achieve a broad distribution of the program description, procedures, and application, including making it available to traditionally under-served and underrepresented populations.

(2) Application. Application for funding of a housing adaptation will be submitted on a form prescribed and distributed by the Department. Final

applications to be considered for funding must be complete. If the project is in a home not owned by a Care Provider or by the person for whom the adaptation is intended, the application will also include written permission by the owner of the property to make the adaptation. If an applicant is not able to provide all the information required on the application form, he or she may request technical assistance.

(3) Technical Assistance. Applicants may request assistance in completing any of the required information on the application by checking an appropriate box on the form. Applicants requesting technical assistance will describe the support needs requiring a housing modification or equipment and any solutions considered.

(a) Within the parameters of their workload, Department staff will provide technical assistance to Individuals and Care Providers for:

(A) Exploring possible solutions to housing problems;

(B) Providing information about building products and practices;

(C) Defining Scopes of Work for projects;

(D) Writing Specifications; and

(E) Completing applications.

(b) The Department may also arrange for technical assistance by architects, contractors or other experts in the construction and remodel of residences for persons with Developmental Disabilities. Funding of technical assistance is an approved use of Trust Account resources.

(4) Determination. Completed applications for funding will be accepted and reviewed by an employee designated by the Assistant Director of Seniors and People with Disabilities. Completed applications will be reviewed in the order they are received and applicants notified of the determination. Applications reviewed by the Department will receive the following determination:

(a) Awarded subject to conditions outlined in the award letter;

(b) Returned to the applicant with a request for additional information;

(c) Deferred for consideration in the next quarter;

(d) Denied for reason(s) described in the notification.

(5) Award. Grants from the Community Housing Trust Account will be awarded in consideration of factors identified in OAR 411-315-0030(5), as well as consideration of:

(a) The amount of funds requested in relation to the number of pending requests;

(b) Consideration of the most effective overall use of resources available.

(6) Availability of Funds. Applications reviewed and found acceptable will be awarded subject to the availability of funds.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0070
Project Monitoring and Disbursement of Funds

(1) Housing adaptation must be performed by a Contractor that is licensed by the Oregon Construction Contractors Board. The Department will verify the license status of Contractors selected. Work must conform to all applicable statutes and building codes.

(2) The Department will identify the entity or person responsible to inspect the work and the method of payment in the award letter. When recorded security documents are required, the Department will identify the entity or person responsible to record those documents in the award letter.

(3) The person or entity to which the award has been made will notify the Department when authorized and funded work has been completed or approved equipment purchased and installed. The Department or its designee will inspect the work and determine if the work is satisfactory. Final payment will be made only for fully completed work accepted by the Department.

(4) The Department may make interim payments for housing projects based on:

(a) Receipts for materials purchased for the project; and/or

(b) Percent of work completed as verified by the Department.

(5) The Department may expend grant funds for minor home adaptations or Equipment through any legal payment mechanism. Funds will be expended only on the basis of requests that include invoices for work, materials or equipment.

(6) Record Keeping. The Department will maintain records of available funds and all approved expenditures. Records will be updated quarterly. Current balances will be made available to each region.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0080
Trust Advisory Committee

(1) Membership and Term. A Trust Advisory Committee will be formed consisting of not less than 8 members including at least one Individual, Family Member, advocate for persons with Developmental Disabilities, service broker, case manager, Department staff, and not-for-profit Housing Provider. The Assistant Director of Seniors and People with Disabilities or his/her designee will appoint members. Members will be appointed for a four-year term, and may be re-appointed one time. The Assistant Director or his/her designee will appoint interim vacancies. A Department employee will serve as staff for the Trust Advisory Committee and will convene the meetings. The Department will provide clerical support to the Trust Advisory Committee.

(2) Meeting Schedule. The Trust Advisory Committee will meet not less than two times each year.

(3) Responsibilities. The Trust Advisory Committee will annually:

(a) Recommend to the Department, a formula for distribution of available resources;

(b) Recommend to the Department, allocation of funds by Region;

(c) Recommend to the Department, the minimum and maximum amount of grant awards;

(d) Conduct a review and evaluation of procedures and allocation of funds;

(e) Make policy recommendations concerning the operation of the program and funding priorities.

(4) Trust Advisory Committee members may hear informal Grievances upon request.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0090
Grievance Procedures

A decision not to fund an application to the Housing Trust Account may be grieved according to these grievance procedures.

(1) The applicant will be notified in writing of his/her grievance rights and procedure at the time of notification regarding funding. Individuals, Care Providers, or their legal representatives may file a Grievance concerning the determination that resulted in a denial of funding. Grievance procedures will be published in the procedure manual.

(2) Informal Procedures. An attempt to resolve a Grievance through informal procedures must be the first step in seeking resolution. The grievant may select one of the following methods:

(a) Meet with a Department staff member;

(b) Meet with a member or sub-committee of the Trust Advisory Committee; or

(c) Meet with a designee of the Assistant Director of Seniors and People with Disabilities.

(3) Informal procedures will result in a decision on the Grievance no later than 30 days from the date the Grievance is filed. The 30 day time period may be extended by mutual decision of the grievant and the Department. The grievant will receive written notice of the Grievance decision or outcome within 5 working days of the informal meeting selected in section (2) of this rule.

(4) If the result of the informal procedures is not acceptable to the grievant, a request for formal review may be made to the Assistant Director of Seniors and People with Disabilities. The Assistant Director will appoint a Grievance Officer to conduct a formal review.

(5) The Grievance Officer will afford individuals the following rights:

(a) The opportunity to review documents and other evidence relied upon in reaching the decision being grieved;

(b) The opportunity to be heard in person and to be represented; and

(c) The opportunity to present witnesses or documents to support their position and to question witnesses presented by other parties.

(6) Within 15 days after the conclusion of the hearing described in section (5)(b) and (c) of this rule, the Grievance Officer will provide written recommendations to the Assistant Director of Seniors and People with Disabilities. The Assistant Director will make a decision and send written notification of the recommendations to all participants within 15 days of the receipt of the recommendations. The decision of the Assistant Director will be final.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

411-315-0100
Securing State Funds

When the total cost of equipment or a housing adaptation, including change orders, is greater than $5,000, the Department may secure the interest of the State by appropriate means, including, but not limited to, Mortgages, Trust Deeds and promissory notes. Security agreements will be executed prior to the beginning of construction.

Stat. Auth. ORS 409.050,ORS 410.070
Stats. Implemented: ORS 427.330 - ORS 427.345
Hist. SPD 8-2003, f. & cert. ef. 4-1-03

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Adm. Order No.: SPD 9-2003(Temp)
Filed with Sec. of State: 4-15-2003
Certified to be Effective: 5-15-03 thru 10-31-03
Notice Publication Date:
Rules Adopted: 411-999-0020
Subject: This temporary rule is being adopted to implement the Seniors Farmers' Market Nutrition Program. The rule adopts eligibility requirements as established by the USDA grant that funds the program.
Rules Coordinator: Pam Rouske—(503) 373-6988

411-999-0020
Seniors Farmers' Market Nutrition Program

(1) This program is funded by a grant from the United States Department of Agriculture and is available to individuals age 60 and older who meet the following eligibility criteria on April 1, 2003:

(a) Have income at or below 135% of the Federal Poverty Level as published by the U.S. Department of Health and Human Services in Federal Register dated February 7, 2003, and;

(b) Receive Medicaid benefits while residing in their own home as provided under Title XIX of the Social Security Act, or Food Stamp Benefits

(2) The program is funded to cover 14,200 eligible participants at $60 per household.

(3) Benefits will be awarded on a first come first serve basis. Once the funds are depleted no further benefits may be granted.

(4) Program begins June 1, 2003 and ends on October 31, 2003.

(5) Denial notices will not be sent to those who will not qualify. Hearings rights are not available for those who do not qualify.

(6) This benefit will not affect any benefit granted by the Department.

[Publications: Publications referenced are available from the agency.]
Stat. Auth: ORS 410.070
Stats. Implemented: ORS 410.070
Hist.: SPD 9-2003(Temp), f. 4-15-03, cert.. ef. 5-15-03 thru 10-31-03

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Department of Justice
Chapter 137

Adm. Order No.: DOJ 2-2003
Filed with Sec. of State: 3-19-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 1-1-03
Rules Adopted: 137-003-0036, 137-003-0573
Subject: These rules provide procedures that will enable contested case hearings to comply with the nondisclosure requirements of HIPAA. A hearing officer or agency can issue a qualified protective order to ensure that certain health information used in hearing will remain confidential.
Rules Coordinator: Carol Riches—(503) 378-6313

137-003-0036
Individually Identifiable Health Information

(1) This rule is intended to facilitate the issuance of a Qualified Protective Order (QPO) by an administrative tribunal in a contested case proceeding. The process described in this rule may be used by an agency or party to a contested case proceeding to request information from Covered Entities by using a QPO. This rule is intended to comply with federal requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA Privacy Rules in 45 CFR Parts 160 and 164 to protect the privacy of Protected Health Information. This rule should be construed to implement and not to alter the requirements of 45 CFR § 164.512(e).

(2) For purposes of this rule, capitalized terms used but not otherwise defined in this rule have the meaning given those terms in the HIPAA Privacy Rules in 45 CFR Parts 160 and 164.

(a) An agency or hearing officer who conducts a contested case hearing on behalf of an agency is an "administrative tribunal," as that term is used in 45 CFR § 164.512(e).

(b) The HIPAA Privacy Rules define "Covered Entity" to include the following entities, as further defined in the HIPAA Privacy Rules:

(A) A Health Insurer or the Medicaid program;

(B) A Health Care Clearinghouse; or

(C) A Health Care Provider that transmits any Individually Identifiable Health Information using Electronic Transactions covered by HIPAA.

(3) An administrative tribunal may issue a QPO at the request of a party, a Covered Entity, an Individual, or the agency.

(a) A request for a QPO may be accompanied by a copy of the subpoena, discovery request, or other lawful process that requests Protected Health Information from a Covered Entity.

(b) If the Individual has signed an authorization permitting disclosure of the Protected Health Information for purposes of the contested case proceeding, the administrative tribunal need not issue a QPO.

(4) A QPO is an order of the administrative tribunal that:

(a) Prohibits the use or disclosure of Protected Health Information by the agency or parties for any purpose other than the contested case proceeding or judicial review of the contested case proceeding;

(b) Requires that all copies of the Protected Health Information be returned to the Covered Entity or destroyed at the conclusion of the contested case proceeding, or judicial review of the contested case proceeding, whichever is later; and

(c) Includes such additional terms and conditions as may be appropriate to comply with federal or state confidentiality requirements that apply to the Protected Health Information.

(5) This rule addresses only the process for requesting a QPO from an administrative tribunal in a contested case hearing. This rule does not address any claims or defenses related to the admissibility or confidentiality of Protected Health Information for purposes of discovery or the hearing.

(6) The provisions of this rule do not supercede any other provisions of the HIPAA Privacy Rules that otherwise permit or restrict uses or disclosure of Protected Health Information without the use of a QPO.

(7) This rule applies to all contested cases that are either pending or initiated on or after April 14, 2003.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.341, HIPAA 1996, 45 CFR part 160 &164
Stats. Implemented: ORS 183.341, Or. Law 1999, 849
Hist.: DOJ 2-2003, f. 3-19-03, cert. ef. 4-1-03

137-003-0573
Individually Identifiable Health Information

(1) This rule is intended to facilitate the issuance of a Qualified Protective Order (QPO) by an administrative tribunal in a contested case proceeding. The process described in this rule may be used by an agency or party to a contested case proceeding to request information from Covered Entities by using a QPO. This rule is intended to comply with federal requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the HIPAA Privacy Rules in 45 CFR Parts 160 and 164 to protect the privacy of Protected Health Information. This rule should be construed to implement and not to alter the requirements of 45 CFR § 164.512(e).

(2) For purposes of this rule, capitalized terms used but not otherwise defined in this rule have the meaning given those terms in the HIPAA Privacy Rules in 45 CFR Parts 160 and 164.

(c) An agency or hearing officer who conducts a contested case hearing on behalf of an agency is an "administrative tribunal," as that term is used in 45 CFR § 164.512(e).

(d) The HIPAA Privacy Rules define "Covered Entity" to include the following entities, as further defined in the HIPAA Privacy Rules:

(A) A Health Insurer or the Medicaid program;

(B) A Health Care Clearinghouse; or

(C) A Health Care Provider that transmits any Individually Identifiable Health Information using Electronic Transactions covered by HIPAA.

(3) An administrative tribunal may issue a QPO at the request of a party, a Covered Entity, an Individual, or the agency.

(a) A request for a QPO may be accompanied by a copy of the subpoena, discovery request, or other lawful process that requests Protected Health Information from a Covered Entity.

(c) If the Individual has signed an authorization permitting disclosure of the Protected Health Information for purposes of the contested case proceeding, the administrative tribunal need not issue a QPO.

(4) A QPO is an order of the administrative tribunal that:

(d) Prohibits the use or disclosure of Protected Health Information by the agency or parties for any purpose other than the contested case proceeding or judicial review of the contested case proceeding;

(e) Requires that all copies of the Protected Health Information be returned to the Covered Entity or destroyed at the conclusion of the contested case proceeding, or judicial review of the contested case proceeding, whichever is later; and

(f) Includes such additional terms and conditions as may be appropriate to comply with federal or state confidentiality requirements that apply to the Protected Health Information.

(5) This rule addresses only the process for requesting a QPO from an administrative tribunal in a contested case hearing. This rule does not address any claims or defenses related to the admissibility or confidentiality of Protected Health Information for purposes of discovery or the hearing.

(6) The provisions of this rule do not supercede any other provisions of the HIPAA Privacy Rules that otherwise permit or restrict uses or disclosure of Protected Health Information without the use of a QPO.

(7) This rule applies to all contested cases that are either pending or initiated on or after April 14, 2003.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.341, HIPAA 1996, 45 CFR part 160 &164
Stats. Implemented: ORS 183.341, Or. Law 1999, 849
Hist.: DOJ 2-2003, f. 3-19-03, cert. ef. 4-1-03

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Adm. Order No.: DOJ 3-2003
Filed with Sec. of State: 4-7-2003
Certified to be Effective: 5-12-03
Notice Publication Date: 1-1-03
Rules Adopted: 137-050-0333, 137-050-0455, 137-050-0465
Rules Amended: 137-050-0320, 137-050-0330, 137-050-0335, 137-050-0340, 137-050-0350, 137-050-0360, 137-050-0390, 137-050-0400, 137-050-0405, 137-050-0410, 137-050-0420, 137-050-0430, 137-050-0450, 137-050-0475, 137-050-0490
Rules Repealed: 137-050-0365, 137-050-0460, 137-050-0470
Subject: The Division needs to adopt these rules to codify changes to the child support guidelines. The Family Support Act of 1988 (P.L. 100-485) requires states to adopt guidelines for the establishment and modification of child support orders and requires states to review those guidelines at least once every four years, taking into consideration economic studies of the cost of raising children. The Department of Justice, Division of Child Support, designated by ORS 25.270 as the agency responsible for promulgation of the support guidelines, first adopted the guidelines in October 1989. In late 2001, the Department commissioned two studies, one to review the Oregon Schedule of Basic Child Support Obligations and recent economic data, and one to review recent Oregon-specific economic data. The Department formed an advisory committee of child support practitioners and parent advocacy groups to review the findings of the study and the criteria and methodology contained in the guidelines. These rules contain the revisions to the guidelines resulting from the Department's review.

Adoptions: The adoption of OAR 137-050-0333 is to remove the rebuttal criteria from OAR 137-050-0330 and create a rule specifically for rebuttals. Textual changes were made to subsections (c), (g), (i) and (j). Section (3) was deleted.

The adoption of OAR 137-050-0455 is to explain how parenting time credit shall be calculated and credited against the calculation of child support obligations. The new rule addresses the presumption that a parent is responsible for the costs of caring for the child while exercising parenting time. The new rule also outlines a Parenting Time Table, listing the percentage range of parenting time with a corresponding adjustment percentage to be used in determining the parenting time credit.

The adoption of OAR 137-050-0465 is to ensure that parents who are at or near the poverty level have sufficient income to support themselves after the payment of child support. The new rule also enables child support practitioners to determine if a low income adjustment applies.

Amendments: The amendments to OAR 137-050-0320 are to organize the definitions in alphabetical order, add definitions for Social Security benefits, Veterans' benefits, Modified Gross Income, Low Income Adjustment, Parent A, Parent B, parenting time, and primary physical custody, and clarify other definitions pertaining to the child support guidelines. The amendments add mandatory contributions to labor organizations to the allowable adjustments one can make to modified gross income.

The amendments to OAR 137-050-0330 are to clarify how to compute individual child support obligations by explaining each step of the calculation process.

The amendment to OAR 137-050-0335 is to clarify that the guidelines changes apply to all judicial and administrative actions initiated or pending after the effective date of any new, amended or repealed rule included in this series. The amendment also defines pending.

The amendment to OAR 137-050-0340 is to clarify how adoption assistance payments, guardianship assistance payments, and foster care subsidies should be treated when determining a parent's gross income. The amendment also reflects the language formerly found in OAR 137-050-0350 regarding the treatment of expense reimbursements and in-kind payments, as it is more appropriately found in this rule.

The amendment to OAR 137-050-0350 is to remove the reference to expense reimbursements or in-kind payments, as these are now addressed in OAR 137-050-0340.

The amendment to OAR 137-050-0360 is to clarify that it is a rebuttable presumption that a parent can be gainfully employed on a full-time basis. The amendment also clarifies how child support practitioners should calculate income due to unemployment compensation or workers' compensation and defines full-time employment.

The amendment to OAR 137-050-0390 makes a minor clarification to the language regarding the calculation of gross income of a parent entitled to receive spousal support.

The amendments to OAR 137-050-0400 are to clarify the language on how to calculate a nonjoint child credit.

The amendment to OAR 137-050-0405 changes the calculation of credit for Social Security or Veterans' benefit payments received on behalf of a child. Benefits will now be added to the gross income of the parent for whom the benefit was paid, and if the benefits were paid on behalf of the noncustodial parent, the benefit will be subtracted from the net child support obligation. Previously, a pro-rata credit was given without taking into account for which parent's disability the benefits were paid.

The amendment to OAR 137-050-0410 is to clarify how to calculate a credit for health care coverage provided for a joint child. The amendment also allows credit prior to enrollment if costs are determinable at the time, allows credit when costs are incurred by a spouse or domestic partner, and defines health care coverage.

The amendments to OAR 137-050-0420 clarify that child care costs may be incurred by either parent and thus either parent may be entitled to credit for those costs. The amendment also clarifies when child care costs for a child will be allowed and defines disabled child.

The amendment to OAR 137-050-0430 is to clarify when a parent is entitled to credit for recurring medical expenses incurred on behalf of a joint child. The amendment also defines recurring medical expenses.

The amendments to OAR 137-050-0450 clarify when parenting time shall be considered in the child support calculation. The amendments also define how child support practitioners shall determine the amount of parenting time to be used in the calculation. Finally, the amendments eliminate references to shared physical custody.

The amendment to OAR 137-050-0475 is to clarify the updated self-support reserve amount and correct references to amended rule numbers.

The amendments to OAR 137-050-0490 are to clarify how to calculate the basic child support obligation using the updated child support scale and replaces the old child support scale in its entirety.

Repeals: OAR 137-050-0365 is being repealed as the intent of this rule was unclear to child support practitioners and is now being clarified in OAR 137-050-0360.

OAR 137-050-0460 is being repealed due to the amendments in OAR 137-050-0450, which result in a new way of calculating credit for parenting time. Under the new way of calculating child support obligations, this rule will no longer be valid.

OAR 137-050-0470 is being repealed due to the determination that there should be no set minimum order amount. By utilizing the calculations as found in OAR 137-050-0465 and 137-050-0475, child support practitioners will be able to arrive at a fair and reasonable child support obligation.

Finally, this rulemaking changes to other rules in the series which make up the child support guidelines as recommended by the Advisory Committee appointed to give input regarding this rulemaking.
Rules Coordinator: Shani Fuller—(503) 986-6232

137-050-0320
Definitions

(1) OAR 137-050-0490 constitutes the formula for determining child support awards as required by ORS 25.275. For purposes of OAR 137-050-0320 to 137-050-0490, unless the context requires otherwise, the following definitions shall apply:

(2) "Adjusted gross income" means modified gross income minus deductions for the nonjoint child(ren) as allowed by OAR 137-050-0400 and plus Social Security or Veterans benefits as allowed by OAR 137-050-0405.

(3) "Apportioned Veteran's benefits" means the amount the Veterans Administration deducts from the veteran's award and disburses to the child or his or her representative payee. The apportionment of Veteran's benefits is determined by the Veterans Administration and is governed by 38 CFR 3.450 through 3.458.

(4) "Basic child support obligation" means the support obligation determined by applying the parent's adjusted gross income, or if there are two parents, their combined adjusted gross income, to the scale in the manner set out in OAR 137-050-0490.

(5) "Gross income" means:

(a) The gross income of the parent calculated pursuant to OAR 137-050-0340 and 137-050-0350;

(b) The potential income of the parent calculated pursuant to OAR 137-050-0360 in certain cases where the parent is unemployed or employed on less than a full time basis; or

(c) A combination of gross income and potential income as calculated under subsections (a) and (b) of this rule.

(6) "Joint child" means the dependent child who is the son or daughter of both the mother and the father involved in the support proceeding. In those cases where support is sought from only one parent of a child, a joint child is the child for whom support is sought.

(7) "Low income adjustment" means the child support scale amount appropriate for a low income obligor under the provisions of OAR 137-050-0465, determined by applying the lesser of:

(a) The parents' pro rata share of the basic support obligation; or

(b) The support obligation determined by applying the parents' single adjusted gross income to the scale in the manner set out in OAR 137-050-0490.

(8) "Modified gross income" means gross income minus any mandatory contribution to a labor organization and plus or minus court ordered spousal support as allowed by OAR 137-050-0390.

(9) "Nonjoint child" means the legal child of one, but not both of the parents subject to this determination. Specifically excluded from this definition are stepchildren.

(10) "Parent A" means the parent who has more than 50 percent of the overall parenting time with the joint child(ren) as calculated in OAR 137-050-0450. If the child(ren) is in the physical custody of the Department of Human Services or the Oregon Youth Authority or another person who is not the child's parent, there will be no Parent A for purposes of calculating child support.

(11) "Parent B" means the parent who has less than 50 percent of the overall parenting time with the joint child(ren) as calculated in OAR 137-050-0450, or a parent whose child(ren) is in the physical custody of the Department of Human Services or the Oregon Youth Authority or another person who is not the child's parent.

(12) "Parenting time" means the amount of time the child(ren) is scheduled to spend with a parent according to an existing written agreement between the parents or a court order.

(13) The parent having "primary physical custody" means the parent who provides the primary residence for the child(ren) and is responsible for the majority of the day-to-day decisions concerning the child(ren).

(14) "Social Security benefits" means the monthly amount the Social Security Administration pays to a joint child or his or her representative payee due solely to the disability or retirement of either parent. Specifically excluded from this definition are benefits paid to a parent due to the disability of a child.

[Publications: The publications referenced are available from the agency.]
Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0330
Computation of Individual Child Support Obligations

To determine the amount of support owed by a parent, follow the procedure set forth in this rule.

(1) Determine "Parent A" and "Parent B".

(2) Determine the "gross income" of each parent.

(3) Determine the "modified gross income" of each parent.

(4) Determine the "adjusted gross income" of each parent, and if there are two parents, the combined "adjusted gross income."

(5) If there are two parents, determine the percentage contribution of each parent to the combined adjusted gross income by dividing the combined adjusted gross income into each parent's adjusted gross income.

(6) Determine the "basic child support obligation."

(7) Determine each parent's share of the basic child support obligation by multiplying the percentage figure from subsection (5) of this rule by the "basic child support obligation."

(8) Determine the parenting time credit, if any, and apply to the basic child support obligation as provided in OAR 137-050-0450.

(9) Apply the "low income adjustment", if appropriate, as provided in OAR 137-050-0465.

(10) Determine the cost for each parent for child care costs as allowed by OAR 137-050-0420, medical expenses as allowed by OAR 137-050-0430, and health care coverage as allowed by OAR 137-010-0410. If costs are not equal each month, annual costs shall be averaged to determine a monthly cost.

(11) Calculate the total costs owed by each parent to the other by applying the parent's percentage of income as determined in subsection (5) of this rule to the out-of-pocket costs incurred by the other parent. Add these amounts to each parent's child support obligation.

(12) Determine the net child support obligation by subtracting the smaller of the obligations from the larger.

(13) If Social Security benefits or apportioned Veterans benefits are received by Parent A as a representative payee for a joint child due to Parent B's disability or retirement, subtract the amount of benefits from Parent B's net child support obligation, if any.

(14) Determine the portion of the calculated child support obligation the obligated parent has the ability to pay as provided in OAR 137-050-0475.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 3-1992, f. 3-3-92, cert. ef. 5-1-92; JD 7-1993, f. 11-3-93, cert. ef. 11-4-93; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 8-1999(Temp), f. & cert. ef. 11-22-99 thru 3-10-00; DOJ 1-2000, f. 2-6-00, cert. ef. 2-7-00; DOJ 5-2001, f. 8-21-01, cert. ef. 9-4-01; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0333
Rebuttals

(1) The amount of child support to be paid as determined in OAR 137-050-0330 is presumed to be the correct amount. This presumption may be rebutted by a finding that the amount is unjust or inappropriate based upon the criteria set forth in subsections (1)(a) through (1)(p) of this rule.

Both the presumed correct amount and the new amount, in variance from the guidelines, shall be recited as part of findings which explain the reason for the variance.

(a) Evidence of the other available resources of the parent;

(b) The reasonable necessities of the parent;

(c) The net income of the parent remaining after withholdings required by law or as a condition of employment;

(d) A parent's ability to borrow;

(e) The number and needs of other dependents of a parent;

(f) The special hardships of a parent including, but not limited to, any medical circumstances or extraordinary travel costs related to the exercise of parenting time, if any, of a parent affecting the parent's ability to pay child support;

(g) The extraordinary or diminished needs of the child;

(h) The desirability of the custodial parent remaining in the home as a full-time parent or working less than full-time to fulfill the role of parent and homemaker;

(i) The tax consequences, if any, to both parents resulting from spousal support awarded, the determination of which parent will name the child as a dependent, child tax credits, or the earned income tax credit received by either parent.

(j) The financial advantage afforded a parent's household by the income of a spouse or domestic partner.

(k) The financial advantage afforded a parent's household by benefits of employment including, but not limited to, those provided by a family owned corporation or self-employment.

(l) Evidence that a child who is subject to the support order is not living with either parent or is a "child attending school" as defined in ORS 107.108.

(m) Prior findings in a Judgment, Order, Decree or Settlement Agreement that the existing support award was made in consideration of other property, debt or financial awards.

(n) The net income of the parent remaining after payment of financial obligations mutually incurred.

(o) The tax advantage or adverse tax effect of a party's income or benefits.

(p) The return of capital.

(2) If the child support presumption is rebutted pursuant to subsection (1) of this rule, a written finding or a specific finding on the record must be made that the amount is unjust or inappropriate. That finding must recite the amount that under the guidelines is presumed to be correct, and must include the reason why the order varies from the guidelines amount. A new support amount shall be calculated by determining an appropriate dollar value to be attributed to the rebuttal criteria upon which the finding was based and by making an appropriate adjustment to the calculation.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0335
Implementation of Changes to Child Support Guidelines

(1) Changes to these rules (OAR 137-050-0320 through 137-050-0490) shall apply to all judicial and administrative actions initiated or pending after the effective date of any new, amended, or repealed rule included in this series.

(2) Rule changes do not constitute a substantial change in circumstances for purposes of modifying a child support order.

(3) As used in this rule, "pending" means any matter that has been initiated before the effective date of a rule change but requires amendment or hearing before a final judgment can be entered.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0340
Gross Income

(1) Except as excluded below, gross income includes income from any source including, but not limited to, salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, interest, honoraria, trust income, annuities, return on capital, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, including lottery winnings, and alimony or separate maintenance received.

(2) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses.

(3) Gross income may be calculated on either an annual or monthly basis. Weekly income shall be translated to monthly income by multiplying the weekly income by 4.33.

(4) If the parent of a joint child is a recipient of Temporary Assistance for Needy Families (TANF), the gross income attributed to that parent shall be the amount which could be earned by full-time work (40 hours a week) at the state minimum wage.

(5) Excluded and not counted as income is any child support payment. It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments and foster care subsidies are excluded and not counted as income.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; JD 1-1996, f. 4-12-96, cert. ef. 5-1-96; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0350
Income from Self-Employment or Operation of a Business

For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus costs of goods sold minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of OAR 137-050-0320 to 137-050-0490 are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the Administrator, Court, or Hearings Officer to be inappropriate or excessive for determining gross income for purposes of calculating child support.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0360
Potential Income

(1) If a parent is unemployed, employed on less than a full-time basis or there is no direct evidence of any income, child support shall be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis.

(2) Determination of potential income shall be made according to one of three methods, as appropriate:

(a) The parent's probable earnings level based on employment potential, recent work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or

(b) If a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received; or

(c) Notwithstanding any other provision of this section, the amount of income a parent could earn working full-time at the current state minimum wage.

(3) This presumption does not apply to a parent who is unable to work full-time due to a verified disability or to an incarcerated obligor as defined in OAR 461-200-3300.

(4) As used in this rule, "full-time" means forty hours of work in a week except in those industries, trades or professions in which most employers due to custom, practice or agreement utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 7-2000, f. 8-4-00, cert. ef. 8-7-00; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0390
Spousal Support

The amount of any pre-existing or concurrently entered court-ordered spousal support shall be deducted from the gross income of the parent obligated to pay such spousal support whether the spousal support is to be paid to the other parent or any other person. The amount of any pre-existing or concurrently entered court-ordered spousal support to be received by a parent from the other parent or any other person shall be added to the gross income of the parent entitled to receive such spousal support.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290

Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 1-1996, f. 4-12-96, cert. ef. 5-1-96; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0400
Nonjoint Children

(1) When either or both parents of the joint child subject to this determination are legally responsible for a nonjoint child who resides in that parent's household, or a nonjoint child to whom or on whose behalf a parent owes an ongoing child support obligation under a court or administrative order, a credit for this obligation shall be calculated pursuant to this rule. The credit does not apply to parents receiving TANF if that parent's gross income is calculated using OAR 137-050-0340(4).

(2) Subtract from a parent's gross income the amount of any spousal support a court orders that parent to pay, and add to a parent's gross income any spousal support the parent is entitled to receive as allowed by OAR 137-050-0390.

(3) Determine the number of nonjoint children in the parent's immediate household, and the number of nonjoint children to whom the parent has been ordered to pay support by prior court or administrative order. The result is "total nonjoint children."

(4) Using the scale as established in OAR 137-050-0490, determine the basic child support obligation for the nonjoint child or children by using the income of the parent for whom the credit is being calculated and adjusting that income for spousal support, if applicable, according to subsection (2) of this rule, and using the number of "total nonjoint children" in subsection (3) of this rule.

(5) Subtract the amount calculated in subsection (4) of this rule from the parent's gross income.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; JD 1-1996, f. 4-12-96, cert. ef. 5-1-96; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0405
Social Security or Veteran's Benefit Payments Received on Behalf of the Child

(1) The amount of the monthly Social Security benefits or apportioned Veteran's benefits received on behalf of the child shall be added to the gross income of the parent for whom the disability or retirement benefit was paid.

(2) If the benefits are paid on behalf of Parent B, and are received by Parent A as a representative payee for the child, then the amount of the benefits shall also be subtracted from Parent B's net child support obligation as calculated pursuant to OAR 137-050-0330.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 180.340, ORS 25.270 - ORS 25.290 & 1999 OL, Ch. 1030
Stats.Implemented: ORS 25.270 - ORS 25.290 & 1999 OL, Ch. 1030
Hist.: DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 7-1999, f. 10-29-99, cert. ef. 11-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0410
Health Care Coverage

(1) The child support obligation shall be adjusted for health care coverage provided for the joint child if:

(a) The parent is or will be required to provide such coverage pursuant to a court or administrative order and such insurance is available to the parent at a reasonable cost;

(b) Health care coverage is not provided pursuant to (1)(a) of this rule and the parent having primary physical custody is providing health care coverage for the joint child and is incurring out-of-pocket costs for such coverage; or

(2)(a) If a parent is required to provide health care coverage as provided in subsection (1)(a) of this rule, determine whether health care coverage is available to the parent on a group basis or through his or her employer or union at reasonable cost. Health care coverage is considered reasonable in cost if it is employment related insurance or other group health care coverage, regardless of service delivery mechanism unless the group insurance is not accessible to the child and the cost to cover the subject child or children does not exceed the monthly child support obligation determined under the formula provided by ORS 25.275 and 25.280.

(b) The child support obligation may be adjusted without regard to whether the child is currently enrolled if the child will be enrolled upon finalization of the order to provide health care coverage and the cost of the health care coverage is determinable at the time the order is entered.

(3) Determine the cost to the parent of carrying health care coverage for only the parent's joint children. If family coverage is provided for joint child(ren) and other family members, prorate the out-of-pocket cost of health care coverage for joint children only.

(4) If a parent has elected to provide health care coverage as provided in subsection (1)(b) of this rule, out-of-pocket costs are only allowed to the extent they do not exceed the monthly child support obligation determined under the formula provided by ORS 25.275 and 25.280.

(5) When the support obligation of a parent is determined for a child who is not in the custody of either parent, and assuming that only the income of the parent against whom support is ordered is considered, the entire out-of-pocket cost of any insurance for that child provided by the obligated parent shall be allowed with respect to that parent.

(6) Out-of-pocket health coverage costs to insure the joint child(ren) and incurred by a parent's spouse or domestic partner may be attributed to the parent.

(7) Health care coverage may include, but is not limited to, coverage for hospital, surgical, dental, optical, prescription drugs, office visits, counseling or any combination of these or any other comparable health care expenses.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 7-1993, f. 11-3-93, cert. ef. 11-4-93; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0420
Child Care Costs

(1) The child support obligation shall be adjusted for child care costs for a joint child under the age of 13 or a disabled child in an amount equal to the annualized monthly child care costs, including government child care subsidies, less the estimated federal and state child care credit payable on behalf of a joint child.

(2) Child care costs are those costs incurred by either parent which are due to the parent's employment, job search, or training or education necessary to obtain a job.

(3) Child care costs are allowable only to the extent that they are reasonable and do not exceed the level required to provide quality care for the child(ren) from a licensed source.

(4) Child care costs incurred by a parent include any amounts paid by government subsidies for that parent.

(5) As used in this rule, "disabled child" means a child who has a physical or mental disability that substantially limits one or more major life activities (self-care, walking, seeing, speaking, hearing, breathing, learning, working, etc.).

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 16-1992, f. 10-20-92, cert. ef. 11-2-92; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0430
Medical Expenses

(1) The child support obligation shall be adjusted for recurring medical expenses incurred on behalf of a joint child to the extent the medical expenses exceed $250 per year per child and are not eligible for payment by health care coverage or other insurance.

(2) Recurring medical expenses are defined as those expenses which are reasonably expected to occur regularly and periodically in the future based on documented past experience or on substantial evidence of future need and include, but are not limited to, hospital, surgical, dental, optical, prescription drugs, office visits, counseling or any combination of these of any other comparable health care expenses.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 1-1994, f. 1-26-94, cert. ef. 2-1-94; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0450
Parenting Time

(1) If there is a written parenting time agreement or court order providing for parenting time, the percentage of overall parenting time for each parent shall be calculated as follows:

(a) Multiply the number of joint children by 365 to arrive at a total number of child overnights. Add together the total number of overnights the parent is allowed with each joint child and divide the parenting time overnights by the total number of child overnights.

(b) Notwithstanding the calculation provided in (1)(a), the percentage of parenting time may be determined using a method other than overnights

if the parents have an alternative parenting time schedule in which a parent has significant time periods where the child is in the parent's physical custody but does not stay overnight.

(2) If the court determines actual parenting time exercised by a parent is different than what is provided in a written parenting plan or court order, the percentage of parenting time may be calculated using the actual parenting time exercised by the parent.

(3) If there is no written parenting time agreement or court order providing for parenting time, the parent having primary physical custody shall be treated as having 100 percent of the parenting time.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 11-1990(Temp), f. 12-20-90, cert. ef. 1-1-91; JD 2-1991, f. & cert. ef. 3-1-91; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; JD 5-1994(Temp), f. 10-17-94, cert. ef. 10-18-94; JD 7-1994(Temp), f. & cert. ef. 11-8-94; JD 2-1995, f. 1-31-95, cert. ef. 2-1-95; JD 1-1996, f. 4-12-96, cert. ef. 5-1-96; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 5-2001, f. 8-21-01, cert. ef. 9-4-01; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0455
Parenting Time Credit

(1) This rule shall apply when the parents have agreed in writing or by court order that both parents have overall parenting time more than 20 percent of the time as calculated pursuant to OAR 137-050-0450.

(2) Parent B shall be entitled to a parenting time credit calculated as follows:

(a) Find the adjustment percentage corresponding to the percentage of parenting time allowed to Parent B below; Percentage Range of Parenting Time — Adjustment Percentage:

(A) 20% through 23.8% — 10.5%
(B) 23.9% through 31.5% — 16.1%
(C) 31.6% through 35.3% — 19.5%
(D) 35.4% through 38.9% — 25.3%
(E) 39% through 41.6% — 30.7%
(F) 41.7% through 44.4% — 36.2%
(G) 44.5% through 47.1% — 42.2%
(H) 47.2% through 49.9% — 48.6%

(b) Multiply the adjustment percentage by the "Basic Child Support Obligation" to arrive at the parenting time credit.

(3) If the parenting time credit is greater than Parent B's prorated share of the basic child support obligation, subtract Parent B's basic child support obligation from the parenting time credit. The result is Parent A's obligation after parenting time credit.

(4) If the parenting time credit is less than Parent B's prorated share of the basic child support obligation, subtract the parenting time credit from Parent B's basic child support obligation. The result is Parent B's obligation after parenting time credit.

(5) If the parenting time is equal, the expenses for the children are equally shared and the adjusted gross incomes of the parents also are equal, no support shall be paid.

(6) If the parenting time is equal but the parents adjusted gross incomes are not equal, the parent having the greater adjusted gross income shall be obligated for the amount of basic child support needed to equalize the basic child support to each parent, calculated as follows:

(a) After the basic child support obligation has been prorated between the parents, subtract the lower amount from the higher amount and divide the balance in half.

(b) The resulting figure is the obligation after parenting time credit for the parent with the greater adjusted gross income.

(7) This parenting time credit reflects the presumption that while exercising parenting time, a parent is responsible for and incurs the costs of caring for the child, including but not limited to, food, clothing, transportation, recreation and household expenses.

Stat. Auth.: ORS 180.340 & ORS 25.270 - ORS 25.290
Stats. Implemented: ORS 25.270 - ORS 25.290
Hist.: DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0465
Low Income Adjustment

(1) The low income adjustment is a calculation to ensure that parents who are at or near the federal poverty level have sufficient income to support themselves after the payment of child support.

(2) To determine if the low income adjustment applies, find each parent's single income obligation by referencing the scale in OAR 137-050-0490 for the appropriate number of joint children and each parent's individual modified gross income as defined in OAR 137-050-0320.

(3) Compare the amounts obtained in subsection (2) of this rule to the prorated basic child support obligation after parenting time credit and apply the lower of the two figures to the remaining calculation for each parent.

Stat. Auth.: ORS 25.275 & ORS 25.280
Stats. Implemented: ORS 25.275 & ORS 25.280
Hist.: DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0475
Ability to Pay

It is a rebuttable presumption that a child support order should not exceed the obligated parent's ability to pay. To determine the amount of child support the obligated parent has the ability to pay, follow the procedure set out in this rule:

(1) Calculate the obligated parent's income available for support by subtracting a self-support reserve of $884.00 from the obligated parent's "modified gross income" as defined in OAR 137-050-0320.

(2) Compare the obligated parent's income available for support to the amount of support calculated as per OAR 137-050-0330(1) through (13). The amount of child support that is presumed to be correct as defined in OAR 137-050-0333 is the lesser of these two amounts.

(3) This rule does not apply to an incarcerated obligor as defined in OAR 461-200-3300.

Stat. Auth.: ORS 25.275 & ORS 25.280
Stats. Implemented: ORS 25.275 & ORS 25.280
Hist.: DOJ 5-2001, f. 8-21-01, cert. ef. 9-4-01; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

137-050-0490
The Scale Used in Child Support Determination

(1) Table 1 ("the scale") shall be used in any judicial or administrative proceeding to establish or modify a support obligation under ORS Chapters 107, 108, 109, 110, 416, 419B and 419C and determinations pursuant to OAR 137-050-0320 through 137-050-0490.

(2) The basic child support obligation is determined by referencing the scale for the appropriate number of joint children and the combined adjusted gross income of the parents.

(3) Where a child is not in the custody of either parent and a support order is sought against one or both parents, the basic child support obligation is determined by referencing the scale for the appropriate number of joint children and the parent's individual adjusted gross income, not the combined adjusted gross income of the parents.

(4) For combined adjusted gross incomes exceeding $20,000 per month, the presumed basic child support obligations shall be as for parents with combined adjusted gross income of $20,000 per month. A basic child support obligation in excess of this level may be demonstrated for those reasons set forth in OAR 137-050-0333.

(5) When the combined income falls between two income amounts on the scale, use the lower income amount on the scale to determine the child support obligation.

(6) The scale below presumes the parent with primary physical custody will take the tax exemption for the joint child(ren) for income tax purposes. When that parent does not take the tax exemption, the rebuttals in OAR 137-050-0333 may be used to adjust the child support obligation.

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

Stat. Auth.: ORS 25.275 & ORS 25.280
Stats. Implemented: ORS 25.275 & ORS 25.280
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03

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Department of Public Safety Standards and Training
Chapter 259

Adm. Order No.: DPSST 5-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03
Notice Publication Date: 2-1-03
Rules Amended: 259-006-0000
Subject: Our current rule is outside the intent and scope of the enabling statute. This rule change brings the rule into line with statute.
Rules Coordinator: Shawn M. Irish—(503) 378-2100, ext. 2223

259-006-0000
Policy Committees

(1) The Board on Public Safety Standards and Training shall establish the following policy committees:

(a) Corrections Policy Committee;
(b) Fire Policy Committee;

(c) Police Policy Committee; and

(d) Telecommunications Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice-chairperson. The vice-chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

(a) All of the board members who represent the corrections discipline;

(b) The chief administrative officer of the training division of the Department of Corrections;

(c) A security manager from the Department of Corrections; and

(d) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon State Sheriffs' Association;

(B) Two persons recommended by and representing the Oregon Jail Managers' Association;

(C) One person recommended by and representing a statewide association of community corrections directors; and

(D) One non-management corrections officer employed by the Department of Corrections.

(4) The Fire Policy Committee consists of:

(a) All of the board members who represent the fire service discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing a statewide association of fire instructors;

(B) One person recommended by and representing a statewide association of fire marshals;

(C) One person recommended by and representing community college fire programs; and

(D) One non-management firefighter recommended by a statewide organization of firefighters.

(5) The Police Policy Committee consists of:

(a) All of the board members who represent the law enforcement discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon Association of Chiefs of Police;

(B) Two persons recommended by and representing the Oregon State Sheriffs' Association;

(C) One command officer recommended by and representing the Oregon State Police; and

(D) One non-management law enforcement officer.

(6) The Telecommunications Policy Committee consists of:

(a) All of the board members who represent the telecommunications discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) Two persons recommended by and representing a statewide association of public safety communications officers;

(B) One person recommended by and representing the Oregon Association of Chiefs of Police;

(C) One person recommended by and representing the Oregon State Police;

(D) Two persons representing telecommunicators;

(E) One person recommended by and representing the Oregon State Sheriffs' Association;

(F) One person recommended by and representing the Oregon Fire Chiefs' Association;

(G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Health Division; and

(H) One person representing paramedics and recommended by a statewide association dealing with fire medical issues.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 10-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 6-2002, f. & cert. ef. 4-3-02; DPSST 5-2003, f. & cert. ef. 4-11-03

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Adm. Order No.: DPSST 6-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03
Notice Publication Date: 2-1-03
Rules Amended: 259-008-0010
Subject: Allows certification for those who attend high school outside the United States by removing the word accredited.
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 provided by the Department shall be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer shall have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction

(a) A law enforcement officer, instructor, telecommunicator, or EMD who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days.

(A) The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Moral Character). All law enforcement officers must be of good moral fitness as determined by a thorough background investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a law enforcement officer. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the officer's performance on the job

which makes the officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the officer's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career officer development course, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language. The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic police training. Implementation of this rule will take effect within one year from September 1, 2001.

(8) Physical Examination. All law enforcement officers and applicants shall be examined by a licensed physician or surgeon. The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101. Individuals who have had a successfully completed physical examination (while at the same employer) that is less than two years old at the time of DPSST's receipt of a properly completed 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.

(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 coworkers. 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; DPSST 6-2003, f. & cert. ef. 4-11-03

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Adm. Order No.: DPSST 7-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-11-03
Notice Publication Date: 3-1-03
Rules Amended: 259-008-0070
Subject: Administrative rule 259-008-0070 speaks as to Public Safety Professionals, which includes Fire Service 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—(503) 378-2100, ext. 2223

259-008-0070
Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, in such a way to insure the highest levels of professionalism and discipline.

(a) These 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 or respect of the profession will be compromised by a waiver.

(b) In the event that a waiver of denial or revocation is granted the decision shall be made in writing.

(2) The Department shall deny or revoke the certification of any police officer, corrections officer, parole and probation officer, telecommunicator, emergency medical dispatcher or instructor after written notice and hearing, based upon a finding that:

(a) The officer, telecommunicator, or emergency medical dispatcher has been discharged for cause from employment as a police officer, corrections officer, parole and probation officer, telecommunicator, or emergency medical dispatcher.

(b) For purposes of (a) above, "discharged for cause", means an employer initiated termination of employment for any of the following reasons:

(A) Gross Negligence: means where the public safety professional's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;

(B) Insubordination: means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional's refusal to comply with the rule or order constitutes a substantial breach of that person's duties; or

(C) Incompetence or Gross Misconduct: in determining what constitutes "incompetence or gross misconduct," sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.

(c) The officer, telecommunicator, emergency medical dispatcher or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(d) The officer, telecommunicator, emergency medical dispatcher, or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(e) The officer, telecommunicator, emergency medical dispatcher, or instructor has been convicted in this state of violating 162.075 (False swearing), 162.085 (Unsworn falsification), 162.145 (Escape in 3rd degree), 162.235 (Obstructing government or judicial administration), 162.315 (Resisting arrest), 162.335 (Compounding a felony), 162.355 (Simulating legal processes) 162.365 (Criminal impersonation), 162.369 (Possession of false law enforcement ID card), 162.375 (Initiating a false report), 162.385 (Giving false information to a police officer), 162.405 (Official misconduct 2nd degree), 162.415 (Official misconduct 1st degree), 163.200 (Criminal mistreatment 2nd degree), 163.207 (Female genital mutilation), 163.208 (Assaulting public safety officer), 163.212 (Unlawful use stun gun/tear gas/mace 2nd degree, 163.415 (Sexual abuse 3rd degree, 163.435 (Contributing to sexual delinquency of minor), 163.445 (Sexual misconduct), 163.465 (Public indecency), 163.545 (Child neglect 2nd degree), 163.575 (Endangering welfare of a minor, 163.675 (sale or exhibition of visual reproduction of sexual conduct by a child), 163.687 (Encouraging child sex abuse 3rd degree), 163. 693 (Failure to report child pornography), 164.045 (Theft 2nd degree), 164.170 (Laundering a monetary instrument), 164.172 (Engaging in financial transaction in property derived from unlawful activity), 164.235 (Possession of burglar's tools), 165.007 (Forgery 2nd degree), 165.017 (Criminal possession of forged instruments 2nd degree), 165.037 (Criminal simulation), 165.042 (Fraudulently obtaining a signature), 165.080 (Falsifying business records), 165.095 (Misapplication of entrusted property), 165.100 (Issuing false financial statement), 165.102 (Obtain execution of documents by deception), 165.577 (Cellular counterfeiting 3rd degree), 165.800 (Identity theft), 166.155 (Intimidation 2nd degree), 166.350 (Unlawful possession of armor-piercing ammunition), 166.416 (Providing false information regarding gun transfer), 166.418 (Improperly transferring handgun), 166.425 (Unlawful purchase of firearm), 166.427 (Register of transfers of used firearms), 166.480 (Sale/gift of explosives to children), 167.007 (Prostitution), 167.062 (Sadomasochistic abuse or sexual conduct in live show),167.065 (Furnishing obscene materials to minors), 167.070 (Sending obscene materials to minors), 167.075 (Exhibiting an obscene performance to minor), 167.080 (Displaying obscene materials to minors), 167.087 (Disseminating obscene materials), 167.090 (Public display of nudity/sex for advertising),167.122 (Promoting gambling 2nd degree), 167.132 (Possession of gambling records 2nd degree), 167.147 (Possession of gambling device), 167.222 (Frequenting place controlled substance is used), 167.262 (Adult using minor in controlled substance offense), 167.320 (Animal abuse 1st degree), 167.352 (Interfere with assisted search or rescue of animal), 167.355 (Involvement in animal fighting), 167.820 (Concealing birth of infant), 475.960 (Illegally selling drug equipment), any misdemeanor involving any acts of domestic violence as defined in ORS 135.230, or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(A) There is not an option of waiver for the crimes listed above.

(3) Grounds for Denying or Revoking Certification of an Officer, Telecommunicator, Emergency Medical Dispatcher or Instructor:

(a) The Department may deny or revoke the certification of any officer, telecommunicator, emergency medical dispatcher or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The officer, telecommunicator, emergency medical dispatcher or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The officer, telecommunicator, emergency medical dispatcher or instructor has been convicted of a crime, other than a mandatory denial or revocation as listed above, in this state or any other jurisdiction.

(i) In making a decision on a discretionary denial or revocation the policy committees may use the criminal disqualifier and decision matrix approved by the Board. (Exhibit A)

(ii) The matrix is designed as an aid in guidance to decision-making only and provides parameters for deviation.

(iii) Policy committees may consider aggravating and/or mitigating circumstances from the criminal disqualifier matrix for the parameters included but not limited to the list below:

(I) Was the conviction a felony, misdemeanor, or violation?

(II) How long ago did the conviction occur? (refer to the matrix)

(III) Was the person a minor at the time and tried as an adult?

(IV) Did it occur before, during, after, or in between employment in law enforcement?

(V) Did the individual serve time in prison/jail? If so, how long?

(VI) If restitution was involved, has the person met all obligations?

(VII) Was the individual on parole or probation? If so, when did the parole or probation end? Is the person still on parole or probation?

(VIII) Are there any aggravating or mitigating circumstances that should be considered?

(IX) Do the actions violate the rule definition of moral fitness (OAR 259-008-0010(5)), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that 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?

(X) How many other convictions does this person have? Over what period of time?

(XI) Has this person been convicted of this same crime more than once?

(XII) If a DUII, is this the first, second, or third time within the previous 10 years? (Has this DUII become a felony (it's a felony if this is the fourth conviction and the last three were within the previous ten-year period)?

(XIII) Does this conviction involve any domestic violence situation?

(C) The officer, telecommunicator, emergency medical dispatcher or instructor does not meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640(1)(a) to (d).

(4) Scope of Revocation. Whenever the Department revokes the certification of any public safety professional, the revocation shall embrace all certificates the Department has issued to that person.

(5) Revocation and Denial Procedure.

(a) Agency Request: When the hiring authority having employed the public safety professional requests that the person's certification be revoked or denied, it shall submit in writing to the Department the reason for the requested revocation or denial and all factual information supporting the request.

(b) DPSST Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the person's certification be revoked or denied.

(c) Department Staff Review: The Department shall review the request and the supporting factual information to determine if the request for 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 revocation or denial the Department shall so notify the requestor. If the reason for the revocation or denial meets statutory and administrative rule requirements but is not supported by adequate factual information, the Department shall request further information from the requesting hiring authority or conduct its own investigation of the matter. If the Department makes a determination that a person's certification should be revoked or denied, as a result of a conviction deemed to be discretionary, the request must be presented to the Board, through a Policy Committee, for review. If the Board should consider a request for waiver of the denial or revocation action, it is the responsibility of the applicant to present to the Board all information relative to the request for waiver, not less than fifteen days prior to the next scheduled Board meeting. The Board may consider a request for waiver under unique circumstances, and only if substantial and compelling reasons have been clearly demonstrated by the applicant.

(d) Initiation of Proceedings: Upon determination that the reason for revocation or denial is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice shall be prepared.

(e) Contested Case Notice: The Department shall prepare, or the Board shall cause the Department to prepare 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 shall have a copy of the notice served on the public safety professional.

(f) Response Time: A party who has been served with the "Contested Case Notice" shall have 20 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 137-003-0515.

(i) Findings of Fact, Conclusions of Law and Proposed Final Order. The presiding officer of the Hearings Officer Panel shall prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(j) Exceptions and Arguments to the Findings of Fact, Conclusions of Law and Proposed Final Order. A party shall have 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order to file specific written exceptions and arguments with the Department.

(A) The Department may extend the time within which the exceptions and arguments shall be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments shall serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

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

Stat. Auth.: ORS 181.640, ORS 181.661, ORS 181.662, ORS 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; 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; Renumbered from 259-010-0055; 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 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 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(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. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03

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Department of Transportation
Chapter 731

Adm. Order No.: DOT 2-2003
Filed with Sec. of State: 3-24-2003
Certified to be Effective: 3-24-03
Notice Publication Date: 1-1-03
Rules Amended: 731-010-0030
Rules Repealed: 731-010-0030(T)
Subject: The amendment to OAR 731-010-0030 adopts the new Department of Administrative Services' (DAS) rules, OAR 125-025, governing the "Consultant Selection Procedures: Architects, Engineers, and Related Professional Consultants." OAR 125-025 rules were amended and renumbered from OAR 125-065 on January 1, 2002. The Department of Transportation is not adopting OAR 125-025-0100 relating to the use of the DAS standard contract and amendment forms. ODOT has developed and uses its own contract forms that were negotiated between the American Council of Engineering Companies and ODOT.
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 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

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; DOT 2-2003, f.& cert. ef. 3-24-03

Department of Transportation,
Board of Maritime Pilots
Chapter 856

Adm. Order No.: BMP 2-2003
Filed with Sec. of State: 3-21-2003
Certified to be Effective: 3-21-03
Notice Publication Date: 2-1-03
Rules Adopted: 856-010-0028
Subject: New rule establishes recommended area for exchange between bar and river pilots on the Columbia River, requires pilot-to-pilot information exchange, requires master-pilot information exchange.
Rules Coordinator: Susan Johnson—(503) 731-4044

856-010-0028
Pilot Exchanges

(1) The recommended area for the exchange between the Bar Pilots and River Pilots is upstream of River Mile 15. Failure to complete the exchange at the recommended location will not, by itself, subject a pilot to discipline by the Board, but in the event of an incident in which it is determined that the exchange took place downstream of River Mile 15, the burden will be on the transferee pilot to show that the place of the exchange was not a contributing factor to the incident. For purposes of this section, pilot "exchange" occurs when the transferor pilot relinquishes the conn and the transferee pilot takes the conn of the vessel.

(2) A pilot exchange shall not be completed until the transferor pilot has communicated all information that is, in the opinion of the transferor pilot, necessary for the transferee pilot to continue with the safe navigation of the vessel, and the transferee pilot shall not accept the conn until satisfied that he or she has received sufficient information to continue with the safe navigation of the vessel.

(3) As soon as practicable after boarding a vessel, the pilot shall conduct an information exchange with the vessel's master or other officer apparently in charge. The information exchange shall address those subjects that are, in the pilot's opinion, necessary for safe navigation of the vessel.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Hist.: BMP 2-2003, f. & cert. ef. 3-21-03

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

Adm. Order No.: DMV 2-2003(Temp)
Filed with Sec. of State: 3-20-2003
Certified to be Effective: 3-20-03 thru 9-15-03
Notice Publication Date:
Rules Amended: 735-062-0060
Subject: This rule establishes the requirement for a vision check every eight years for a person 50 years of age or older. The amendments resolve conflicts with OAR 735-062-0050 and ORS 807.310 by: clarifying that a person whose eyesight does not meet DMV vision standards will not be issued a driver license renewal under this rule; clarifying that a temporary driver permit can only be issued if the vision screening shows a person's visual acuity is between 20/40 and 20/70; and reducing the number of days the permit is valid from 60 days to 30 days.
Rules Coordinator: Brenda Trump—(503) 945-5278

735-062-0060
Periodic Check of Driver's Eyesight

(1) All drivers 50 years of age and older must have their eyesight checked by the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) once every eight years.

(2) A driver's age is the age the person will be on the date of the expiration of the license to be renewed. A driver may be required to have a vision screening at 49 years of age if the driver's license will expire on his or her 50th birthday.

(3) The eyesight check must include those items listed in OAR 735-062-0050.

(4) If a person's eyesight meets the eyesight check standard indicated in OAR 735-062-0050, and if the driver complies with all other driver license renewal requirements, DMV will renew the person's license. If the visual acuity of the person's best eye is worse than 20/40 and no worse than 20/70, DMV will restrict the person to daylight driving only, unless, in the written opinion of a licensed vision specialist (ophthalmologist, oculist or optometrist), the person's driving should not be restricted to daylight driving only. To obtain unrestricted driving privileges, the person must submit a completed Certificate of Examination by Competent Authority on Vision as Provided for in ORS 809.090 form (DMV Form 735-24), that indicates it is the opinion of the vision specialist that the person's driving should not be restricted to daylight driving only.

(5) To allow a person to obtain the written opinion of a licensed vision specialist as provided in section (4) of this rule, DMV will issue upon request, a Temporary Driver Permit, which is valid for 30 days, when DMV's vision screening tests show a person's visual acuity level in the best eye is worse than 20/40 and no worse than 20/70 as follows:

(a) If the person's current driver license is due to expire within 30 days, DMV will issue a Temporary Driver Permit that is valid beginning on the date of expiration of the person's driver license;

(b) If the person's driver license is already expired and has been expired for less than one year, DMV will issue a Temporary Driver Permit that is valid beginning on the date it is issued; and

(c) The Temporary Driver Permit restricts the person's driving privileges to driving during daylight hours only.

(6) Drivers who are temporarily out-of-state and unable to go to a DMV office to have their eyesight checked when required to do so may get their eyesight checked in the state where they are located. A vision examination form Certificate of Examination by Competent Authority on Vision as Provided for in ORS 807.090, DMV Form 735-24 will be provided to the person by DMV. The form must be completed by a licensed ophthalmologist, oculist, or optometrist and be submitted to DMV along with the driver license renewal application.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 807.070 & ORS 807.150
Stats. Implemented: ORS 807.150
Hist.: MV 13-1985, f. 10-8-85, ef. 1-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0047; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 2-2003(Temp), f. & cert. ef. 3-20-03 thru 9-15-03

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Department of Transportation,
Rail Division
Chapter 741

Adm. Order No.: RD 1-2003
Filed with Sec. of State: 3-24-2003
Certified to be Effective: 3-24-03
Notice Publication Date: 1-1-03
Rules Repealed: 741-500-0010, 741-500-0020, 741-500-0030, 741-500-0040, 741-500-0050
Subject: The U.S. Department of Defense requested that ODOT repeal these rules because they are unnecessary and time consuming in the event of a national emergency. Oregon is one of the last two states to have rules requiring placards for over-dimensional loads. Class I railroads operating in Oregon currently have a very sophisticated database of all lines and any impairments or encroachments that may require safety measures when handling a wide load. Specific instructions are issued in the event of the movement of excessive load measurement cars, such as clearance bulletins, speed restrictions, specific routing, and train make-up.
Rules Coordinator: Brenda Trump—(503) 945-5278

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Department of Veterans' Affairs
Chapter 274

Adm. Order No.: DVA 2-2003
Filed with Sec. of State: 3-24-2003
Certified to be Effective: 3-24-03
Notice Publication Date: 3-1-03
Rules Amended: 274-020-0341
Rules Repealed: 274-020-0341(T)
Subject: 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—(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 then 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

(A) 5.95 percent with an origination fee of 1.0 percent;

(B) 5.79 percent with an origination fee of 1.5 percent; or

(C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans.

(i) 5.55 percent with an origination fee of 1.0 percent;

(ii) 5.39 percent with an origination fee of 1.5 percent; or

(iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.

(i) 5.95 percent with an origination fee of 1.0 percent;

(ii) 5.79 percent with an origination fee of 1.5 percent; or

(iii) 5.65 percent with an origination fee of 2.0 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92, DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA -1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f.& cert. ef. 3-24-03

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Adm. Order No.: DVA 3-2003(Temp)
Filed with Sec. of State: 4-7-2003
Certified to be Effective: 4-7-03 thru 10-3-03
Notice Publication Date:
Rules Amended: 274-020-0340, 274-020-0445, 274-028-0020, 274-045-0060, 274-045-0441
Subject: The temporary rules amended in this filing reflect the passage of Senate Bill 193 (ORS 407.225) in the 2003 Regular Legislation Session. This Bill became effective upon passage.

The maximum allowable veterans' home loan amount is increased from 95 percent to 97 percent of the net appraised value.

In addition to the maximum loan amount change in OAR 274-020-0340 and 274-046-0060, these rules are also being amended for housekeeping purposes. The words 'net appraised value' are being inserted immediately after 'loan value' in subsection (1) of both rules for clarification and in order to be consistent with ORS 407.225(3).
Rules Coordinator: Charles E. Gehley—(503) 373-2142

274-020-0340
Terms of Loan

(1) The loan value (net appraised value) shall be used as the basis for determining the maximum loan, subject to statutory limitations. Under the provisions of ORS 407.225(3), the maximum loan on a home which is real property shall not exceed 97 percent of the loan value (net appraised value), but may be a lesser amount as determined from time-to-time by the Director of Veterans' Affairs, (Director):

(a) On farms, the maximum original loan allowable for acquisition of the principal home unit portion of the property shall not exceed the maximum home loan, whether it be for purchase, refinance, construction, improvements, or a combination of these; and the maximum additional loan or advance for improvements to the principal home shall not exceed the difference between the maximum home loan and that portion of the original loan granted on the principal home unit, except advances for protection of security improvements, taxes, and insurance premiums;

(b) Loans shall be made in multiples of $1.

(2) The Director shall determine the period and amount of repayment based on the age, condition, location, and useful life of the security, but the maximum period of repayment shall not exceed statutory limits.

(3) The borrower shall timely pay all property taxes and other assessments that may or do become a lien against the loan security.

(4) The borrower shall carry fire and extended coverage insurance on the security. The Director also may require that hazards other than fire be covered. All premiums and charges for said coverage shall be paid timely by the borrower:

(a) The Director may determine the form and amount of insurance coverage for the security;

(b) All insurance money shall be payable to the State of Oregon, Director of Veterans' Affairs, by endorsement of the Director-approved mortgagee clause;

(c) The Director may enter into agreements with companies engaged in the business of providing insurance management programs which, among other things, assure the Director that the required insurance is kept in force. Where the borrower fails or refuses to keep the property adequately insured, the Director may pay the premium charged by the company providing the insurance management service, and any payment of premium so made shall be added to the amount due from the borrower and shall bear interest at the same rate as the principal indebtedness. The loan payment may be increased to repay the money advanced to pay the insurance premium and accrued interest, over a period of 12 months;

(d) In case of loss, the Director shall determine the disposition of any and all funds received under the insurance policies.

(5) On all loans made on or after June 1, 1990, or as otherwise agreed to by the borrower and the Director, the Director may collect in advance from said borrowers together with their payments required under section (2) of this rule, sufficient amounts to pay property taxes, insurance premiums, and other charges related to the security. Such additional amounts collected by the Director shall be held in escrow pending payment of the obligations for which they are collected and interest on said amounts shall be paid to the borrower in the manner and at the rate of interest described in ORS 87.245(1).

(6) Property taxes, insurance premiums, and other charges may be paid by the Director from funds collected from the borrower for those purposes. The Director, in the absence of funds collected from the borrower (or if such funds are insufficient in amount), may, at his option, elect to pay property taxes, insurance premiums, and other charges from the Oregon War Veteran's Bond Sinking Account. Any amount paid by the Director from the Oregon War Veteran's Bond Sinking Account may be added to and become part of the loan principal and shall bear interest at the same rate as the balance of the principal indebtedness. On loans made after June 1, 1991, excluding qualified loan assumptions, the Director will not add amounts advanced for payment of property taxes or insurance premiums to the principal balance of the loan. On these loans, any amount advanced will be entered as a negative balance in the escrow account.

(7) The borrower's loan payment may be increased to repay the money advanced from the Oregon War Veteran's Bond Sinking Account to pay the property taxes, insurance premiums, and other charges against the security, together with interest thereon, within a maximum period of 12 months or such shorter time as established by the Director.

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.179, ORS 407.179, ORS 407.181, ORS 407.225(3) & ORS 407.275

Stats. Implemented: ORS 407

Hist.: DVA 22, f. 11-15-57, ef. 11-14-57; DVA 29, f. 7-3-63, ef. 9-2-63; DVA 32, f. 12-2-65, ef. 10-25-65; DVA 42, f. 3-2-73, ef. 3-20-73; DVA 45, f. & ef. 12-1-75; DVA 1-1980, f. & ef. 1-15-80; DVA 3-1980, f. & ef. 7-1-80; DVA 6-1983, f. & ef. 5-3-83; DVA 3-1985, f. 2-26-85, ef. 3-1-85; DVA 3-1987, f. & ef. 5-1-87; DVA 3-1990, f. & cert. ef. 5-1-90; DVA 1-1992, f. & cert. ef. 1-2-92; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 3-2003(Temp), f. & cert. ef. 4-7-03 thru 10-3-03

274-020-0445
Assumption of Loan by Eligible Veteran

When a veteran who is eligible to assume a loan under the provisions of ORS 407.305 seeks to acquire property and wishes to assume liability on the loan, the Director of Veterans' Affairs will approve the assumption subject to the following conditions:

(1) The applicant must submit the same evidence of eligibility and the same application as if an application were being submitted for a loan.

(2) The provisions of ORS 407.225(3) do not apply except when additional funds are being requested. If additional funds are not being requested, the applicant may be permitted to assume a loan with a balance in excess of 97 percent of the appraised value on homes which are real property, 85 percent of the appraised value on homes which are not real property, and 90 percent of the appraised value on farms.

(3) Notwithstanding the provisions of OAR 274-020-0440(3)(h) (Appraisal Fees), if additional funds are not being requested, an appraisal fee will not be collected by the director, and no appraisal of the property will be made. If additional funds are being requested, the provisions of ORS 407.225(3) and OAR 274-020-0440(3)(h) shall apply, and an appraisal of the property will be made.

Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.225, 407.275 & ORS 407.305
Stats. Implemented: Ch. 238 OL 1995, ORS 407.225 & ORS 407.275
Hist.: DVA 9-1984, f. 8-6-84, ef. 8-15-84; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DV 12-1995, f. & cert. ef. 9-22-95; DVA 3-2003(Temp), f. & cert. ef. 4-7-03 thru 10-3-03

274-028-0020
Terms of Veterans' Home Improvement Loans

(1) The veterans' home improvement loan must be placed in the first lien position on the security or be an immediate subsequent lien to an existing ODVA lien. The first ODVA lien and any immediate subsequent lien made on the security by the director shall be deemed collectively as a first lien on the security.

(2) The net appraised value will be used as the basis for determining the maximum veterans' home improvement loan subject to statutory limitations.

(3) When a veterans' home improvement loan is made on a security with an existing balance owed to the director, the total of the unpaid balance of the existing loan and the veterans' home improvement loan shall not exceed 80 percent of the net appraised value as determined by the director.

(4) When a veterans' home improvement loan is made on a property where no balance is owing, the veterans' home improvement loan shall not exceed 97 percent of the net appraised value as determined by the director. If the loan-to-value ratio is greater than 80 percent of the net appraised value, the loan must be insured by mortgage insurance consistent with ORS 407.485.

(5) All existing nonamortizing ODVA loans on the security must be reamortized to bring the principal and interest payment and final payment date into conformance with ODVA policy as identified in the Processing Manual. A copy of the manual is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and available to the public Monday through Friday between the hours of 8 a.m. and 5 p.m. All other terms of the existing loan on the security remain unchanged.

(6) Depending upon the loan amount, the maximum term of a home improvement loan may not exceed 20 years.

Stat. Auth.: Ch. 214 OL 1997, ORS 407.205, ORS 407.275 & ORS 407.485
Stats. Implemented: Ch. 214 OL 1997, ORS 407.205, 407.275 & ORS 407.485
Hist.: DVA 6-1997, f. & cert. ef. 10-22-97; DVA 3-2003(Temp), f. & cert. ef. 4-7-03 thru 10-3-03

274-045-0060
Terms of Loan

(1) The loan value (net appraised value) shall be used as the basis for determining the maximum loan, subject to statutory limitations. Under the provisions of ORS 407.225(3), the maximum loan on a home which is real property:

(a) Shall not exceed 97 percent of the net appraised value of the property or the purchase price (whichever is less);

(b) Shall not be more than 97 percent of the net appraised value as defined in OAR 274-045-0001, if the loan is for replacement financing;

(c) Shall not be more than the maximum original principal balance permitted on a single-family first mortgage loan by the Federal National Mortgage Association, as published in its announcement and subsequently included in its Selling Guide for a home.

(2) The borrower shall not receive any cash back from the ODVA loan.

(3) The Director shall determine the period and amount of repayment based on the age, condition, location, and useful life of the security, but the maximum period of repayment shall not exceed statutory limits.

(a) Loans shall be made in multiples of one dollar ($1).

(b) Each program loan shall have a final maturity of at least 15 and not more than 30 years from the date of purchase.

(4) The borrower shall timely pay all property taxes and other assessments that may or do become a lien against the loan security.

(5) The borrower shall carry fire and extended coverage insurance on the security. The Director may also require that hazards other than fire be covered. All premiums and charges for said coverage shall be timely paid by the borrower:

(a) The Director may determine the form and amount of insurance coverage for the security;

(b) All insurance money shall be payable to the State of Oregon, Director of Veterans' Affairs, by endorsement of the Director-approved mortgagee clause;

(c) In the event of failure to maintain coverage, the Director shall acquire the necessary coverage and collect amounts due in a manner consistent with security documents;

(d) In case of loss, the Director shall determine the disposition of any and all funds received under the insurance policies.

(6) The Director may collect in advance, unless otherwise agreed, from said borrowers together with their payments required under section (3) of this rule, sufficient amounts to pay property taxes, insurance premiums, and other charges related to the security. Such additional amounts collected by the Director shall be held in escrow pending payment of the obligations for which they are collected and interest on said amounts shall be paid to the borrower in the manner and at the rate of interest described in ORS 87.245(1).

(7) The Director may pay property taxes, insurance premiums and other charges from funds collected from the borrower for those purposes. The Director, in the absence of funds collected from the borrower (or if such funds are insufficient in amount), may at his option, elect to pay property taxes, insurance premiums, and other charges. Any amount paid by the Director may be collected in the manner consistent with the security documents or other manner agreeable to the Director and borrower. The Director will not add amounts advanced for payment of property taxes or insurance premiums to the principal balance of the loan. On these loans, any amount advanced will be entered as a negative balance in the escrow account.

(8) The borrower's loan payment may be increased to repay the money advanced to pay the property taxes, insurance premiums, and other charges against the security, together with interest thereon, within a maximum period of 12 months or such shorter time as established by the Director.

Stat. Auth.: ORS 291.021, ORS 406.030, ORS 407.115, ORS 407.169, ORS 407.179, ORS 407.179, ORS 407.181, ORS 407.225(3) & ORS 407.275
Stats. Implemented: ORS 407
Hist.: DVA 2-2001, f. & cert. ef. 5-23-01; DVA 3-2001(Temp), f. & cert. ef. 6-15-01 thru 12-11-01; DVA 9-2001, f. & cert. ef. 11-23-01; DVA 3-2003(Temp), f. & cert. ef. 4-7-03 thru 10-3-03

274-045-0441
Terms and Requirements of Veterans' Home Improvement Loans

(1) The veterans' home improvement loan must be placed in the first lien position on the security or be an immediate subsequent lien to an existing ODVA lien. The first ODVA lien and any immediate subsequent lien made on the security by the Director shall be deemed collectively as a first lien on the security.

(2) The net appraised value will be used as the basis for determining the maximum veterans' home improvement loan subject to statutory limitations and remaining loan right.

(3) When a veterans' home improvement loan is made on a security with an existing balance owed to the Director, the total of the unpaid balance of the existing loan and the veterans' home improvement loan shall not exceed 80 percent of the net appraised value as determined by the Director.

(4) When a veteran' home improvement loan is made on a property where no balance is owing, the veterans' home improvement loan shall not exceed 97 percent of the net appraised value as determined by the Director. If the loan-to-value ratio is greater than 80 percent of the net appraised value, the loan must be insured by mortgage insurance consistent with ORS 407.485.

(5) The borrower shall not receive any cash back from the home improvement loan.

(6) All existing nonamortizing ODVA loans on the security must be reamortized to bring the principal and interest payment and final payment date into conformance with ODVA policy as identified in the Processing Manual. A copy of the manual is on file with the Oregon Department of Veterans' Affairs, 700 Summer Street NE, Salem Oregon, and available to the public during normal business hours. All other terms of the existing loan on the security remain unchanged.

(7) Depending upon the loan amount, the maximum term of a home improvement loan may not exceed 20 years.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 406.030, ORS 407.115, ORS 407.125 & Art. XI-A Or Const
Stats. Implemented: ORS 407.115, ORS 407.125 & Art. XI-A Or Const.
Hist.: DVA 10-2001, f. & cert. ef. 12-26-01; DVA 3-2003(Temp), f. & cert. ef. 4-7-03 thru 10-3-03

Dispute Resolution Commission
Chapter 718

Adm. Order No.: DRC 1-2003
Filed with Sec. of State: 3-27-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 3-1-03
Rules Amended: 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
Rules Repealed: 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
Subject: 718-005-0010 - Statutory Authority and Procedure: Repeals section relating the authorization and purpose of the rules. 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 General's Model Rules of Procedure under the Administrative Procedures Act, as adopted by the Commission." 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. 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 Commissions 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."

Rules Coordinator: Evette Moser—(503) 378-2877, ext. 25

718-005-0015
Notice of Rulemaking

Prior to adoption, amendment or repeal of any rule, the commission shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days prior to the effective date of the intended action;

(2) By mailing a copy of the notice to persons on the commission's mailing list established pursuant to ORS 183.335(7);

(3) By mailing, e-mailing or furnishing a copy of the notice to:

(a) The United Press International;

(b) The Associated Press;

(c) The Oregonian; and

(d) The Statesman Journal.

Stat. Auth.: ORS 183 & ORS 36.175
Stats. Implemented: ORS 183.360 & ORS 183.335(7)
Hist.: DRC 1-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 3-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-010-0000
Authority and Purpose

The purpose of these rules is to provide procedures for the orderly conduct of meetings of the Dispute Resolution Commission. These rules are adopted pursuant to ORS Chapter 183, ORS 183.330(1) and ORS 36.175.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 183.330(1) & ORS 36.175
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-010-0005
Quorum and Rules of Order

(1) Four members of the Commission constitute a quorum. The Commission may meet to discuss any matter in the absence of a quorum as provided by ORS 192.610 to 192.690 but may take no formal action on any matter unless a quorum is present.

(2) A majority of the Commission members present at a meeting must concur upon any action transacted by the Commission at such meeting. Any proposed Commission action must be moved by a Commission member and seconded by another Commission member before the Commission may take a vote.

(3) Whenever a quorum is present, the members may not deliberate on or discuss any matter subject to review by the Commission without having first given public notice.

(4) The Commission shall prepare written minutes for each meeting and may record the meetings. The minutes need not be verbatim, but shall include at least a listing of members present; motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition; results of all votes; and the substance of any discussion on any matter.

Stat. Auth.: ORS 36.125
Stats. Implemented: ORS 192.610 - ORS 192.690
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-010-0035
Requests to Place Items on Agenda

Requests to place items on agendas. Any person wishing to have an item placed on the agenda, including a suggested place of meeting, of a regular Commission meeting for purpose of discussion only shall give notice of the request in writing to the Commission at least two weeks prior to each meeting. The item will be placed on the agenda only with concurrence of the chairperson. 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 General's Model Rules of Procedure under the Administrative Procedures Act, as adopted by the Commission.

Stat. Auth.: ORS 36.125
Stats. Implemented:
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-010-0085
Public Availability of Information

(1) Upon request, the Commission shall make available public records of the Commission, in accordance with ORS 192.410 through 192.500. The Commission may make those records available for inspection at no cost during regular business hours at the Commission's offices. The Commission shall, upon request, provide copies of public records at a cost reasonably calculated to reimburse it for its actual costs in making those records available. The Commission shall publish and may revise a schedule of those costs.

(2) In the event that a request for records is denied, the Commission shall notify the requestor, in writing, of the basis for the denial and of the requestor's right to appeal the denial to the Attorney General of the State of Oregon, as provided in ORS 192.450.

Stat. Auth.: ORS 36.125
Stats. Implemented: ORS 192.410 - ORS 192.500
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-010-0090
Rules of Procedure

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 rules of procedure.

Stat. Auth.: ORS 36.125
Stats. Implemented: ORS 183.341
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0000
Scope of Application of Rules

These rules apply to the application process and to programs granted funds pursuant to ORS 36.155. These rules shall be known as the Oregon Community Dispute Resolution Program Rules. Future rules may incorporate provisions of these rules in regard to other dispute resolution programs.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.155
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

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

(1) "Applicant" is an entity which has submitted an application for program funding pursuant to ORS 36.155.

(2) "Commission" means the Dispute Resolution Commission created under ORS 36.115.

(3) "Director" means the Executive Director appointed by the Dispute Resolution Commission under ORS 36.130.

(4) "Mediation" is defined as in ORS 36.110(6) and includes case development and conciliation.

(5) "Community Dispute Resolution Program" means a program that has been determined eligible for funding under ORS 36.155 and these rules.

(6) "Grantee" is a community dispute resolution program that has been awarded funding pursuant to ORS 36.155.

(7) "Rules" refers to OAR Chapter 718, commencing with OAR 718-020-0000 and ending with 718-020-0160.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.155. ORS 36.130 & ORS 36.110(6)
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0020
Program Services

(1) A purpose of ORS 36.100 - 36.175 is to foster the development of community based dispute resolution programs that will assist citizens in resolving disputes and developing skills in conflict resolution. To that end, a community dispute resolution program funded pursuant to ORS 36.155 shall provide at a minimum the following services:

(a) Citizen education in conflict resolution skills to assist citizens in resolving their own disputes peacefully; and

(b) Community mediation services provided in part by volunteer mediators.

(2) In addition to these essential services, programs may elect to provide other services in order to respond to local identified needs. Such services may include, but are not limited to:

(a) Methods for addressing the interests of crime victims in criminal cases when those cases are either not prosecuted for lack of funds or could be more effectively handled outside the courts;

(b) Arbitration; and

(c) Training for individuals who resolve disputes.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.100 - ORS 36.175 & ORS 36.155
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0050
Participating Fund Requirements

(1) Grantees shall be required to match the funding granted to them pursuant to ORS 36.155at the following levels:

(a) First grant year — 10 percent;

(b) Second grant year — 25 percent;

(c) Third grant year — 50 percent;

(d) Fourth grant year — 75 percent;

(e) Fifth grant year — 100 percent.

(2) Program participating funds may be generated through fees for services, grants, donations, fundraising, in-kind donations and revenue generating efforts. The Commission shall retain discretion to waive or modify the participating fund requirements based upon the grantee's good faith efforts and substantial compliance with such requirements.

(3) In-kind donations may be reported or credited as revenue or expenditures, if such donations:

(a) Will be received during the proposed budgetary period; and

(b) Represent necessary and ordinary expenses or services related to the operation and management of the grantee.

(4) Documentation of in-kind donations shall include descriptions of the services or materials donated, the dates received, and the names and addresses of the donors. Volunteer services shall be documented by means of time sheets signed by the volunteer and verified by the program manager.

(5) In-kind donations and services — such as office space and administrative, clerical and professional services — shall be valued at the prevailing market rate.

(6) The following may not be included as in-kind donations: Volunteer time by members of the grantee's board of directors or advisory committee while serving in the capacity as members of the board or committee.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.155
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0080
Reporting Requirements

(1) Each grantee shall provide to the Dispute Resolution Commission data on: its operating budget, the number and kinds of education programs, staff and volunteer qualifications, training activities, the number and source of referrals, types of disputes referred, dispute resolution services provided, number of persons served, case outcome, and such other information the Dispute Resolution Commission may require. Each grantee shall report the information annually and as the Commission shall direct in writing.

(2) Within ninety days of the close of each grant period, the grantee shall submit to the commission a final summary of revenues and expenses.

Stat. Auth.: ORS 36.175
Stats. Implemented:
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0110
County Declaration of Intent to Participate

(1) A county shall notify the Commission on or before March 15 of each odd-numbered year of its intention to participate in the expenditure of funds for programs funded under ORS 36.155. Such notification shall be by resolution of the appropriate board of county commissioners.

(2) A county may notify the Commission in writing at any time that it does not intend to participate in the expenditure of funds for programs funded under ORS 36.155.

(3) The Dispute Resolution Commission may assume the county's role:

(a) Upon notice from the county, at any time, that it does not intent to participate; or

(b) If the county does not provide notice of intent to participate on or before March 15 of each odd-numbered year.

(4) If the Commission has assumed the county's role, the Commission shall contract with a program for not more than two years at a time. If the Commission has contracted with a program in a county, the county must notify the Commission 90 days prior to the expiration of the contract of its intent to assume participation in expenditure of funds.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.160 & ORS 36.155
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-1999, f. & cert. ef. 8-3-99; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0120
County Dispute Resolution Program Coordinator

(1) Each board of commissioners electing to participate in the expenditure of funds shall designate a person to function as the county dispute resolution program coordinator. To assure the neutrality and absence of any conflict of interest, the coordinator shall not directly participate, oversee, work for, volunteer, or otherwise take part in any community dispute resolution program.

(2) The coordinator shall maintain public information on any dispute resolution services within the county including name and telephone number of the coordinator, availability of grant monies to fund local programs, the grant solicitation and award process, and the program names and services provided by grantees in that county.

Stat. Auth.: ORS 36.175
Stats. Implemented:
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0130
Application Process

(1) A board of commissioners, or the Dispute Resolution Commission, if the Commission has assumed the county's role, shall issue a Request for Applications to provide the program services funded under ORS 36.155.

(2) The application and selection process shall be open and shall encourage potential applicants to collaborate in designing programs to serve county needs.

(3) An applicant shall submit the original application to the participating county, and a copy of the application shall be sent simultaneously to the Dispute Resolution Commission.

Stat. Auth.: ORS 36.175
Stats. Implemented:
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRS 1-1994, f. & cert. ef. 6-23-94; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0140
Application Requirements

All applicants shall provide the following information as part of their application for eligibility determination:

(1) A statement of the program's goals, objectives and activities including citizen education in conflict resolution skills and community mediation services.

(2) A description of community problems to be addressed; the proposed geographic area of service; the service population, and the number of persons the applicant will have the capacity to serve on an annual basis; the types of disputes to be handled; the types of dispute resolution services to be offered; and any access restrictions to be imposed by the applicant.

(3) A plan for recruiting, selecting and using volunteer mediators.

(4) A description of any training activities including the mediation curriculum and apprenticeship.

(5) A plan for publicizing its services and resources to potential referral agencies, individuals, civic groups, courts and justice system agencies.

(6) The applicant's organizational chart, structure, personnel policies, and resumes of all professional staff members.

(7) A proposed budget including the amount and sources of participating funds for the grant period, and any fee schedule to be used by the applicant. If available, financial reports shall also be submitted for the previous two years of the applicant's services. An applicant's request shall not exceed the Commissions grant projection made pursuant to OAR 718-020-0100.

(8) A description of program evaluation plans.

(9) Letters of support from community organizations, judicial and legal system representatives, administrative agencies, or other appropriate public service organizations in the proposed area of service. Such letters should, if appropriate, attest to the organization's willingness to make referrals to the applicant.

(10) An Affirmative Action statement.

(11) Other information required by the county.

Stat. Auth.: ORS 36.175
Stats. Implemented:
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-020-0150
Selection Process

(1) The Commission shall acknowledge receipt of each application and shall review each application to determine whether the applicant is eligible for funding under these rules as of the date of application. The Commission shall send a notice of eligibility determination to each applicant and to the county dispute resolution coordinator.

(2) The county shall review the applications of those applicants determined eligible by the Commission and shall select the program(s) for funding. Criteria for the selection of funding may include:

(a) The ability of the applicant to address unmet community needs in the proposed geographical area of service;

(b) The structure and scope of the services to be provided by the applicant;

(c) The applicant's experience and qualifications in dispute resolution services;

(d) The amount of the requested grant and the reliability of the applicant's other funding sources; and

(e) The adequacy and cost of personnel, services and supplies, and capital outlay.

Stat. Auth.: ORS 36.175
Stats. Implemented:
Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-040-0030
Domestic Relations Mediators — Summary of Minimum Qualifications and Training Requirements

A listed domestic relations mediator shall have:

(1) Completed the following three training requirements:

(a) The mediation curriculum described in OAR 718-040-0050(1);

(b) The substantive training described in OAR 718-040-0060; and

(c) At least six hours of training in the court system as described in OAR 718-040-0070.

(2) Completed an experience requirement as described in OAR 718-040-0070;

(3) Subscribed to the standards of conduct in OAR 718-040-0100; and

(4) Completed a disclosure as described in OAR 718-040-0110.

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.200(1)
Hist.: DRC 1-1993, f. & cert. ef. 4-23-93; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

718-040-0110
All Listed Mediators — Disclosure of Information About Mediator

A listed mediator shall have submitted to the court for public dissemination the following information:

(1) Name;

(2) Business name;

(3) Address;

(4) Telephone number;

(5) Facsimile number;

(6) Description of formal education;

(7) Description of mediation training, including dates, trainers' names, evidence of completion, and training outline(s);

(8) Description of mediation experience;

(9) Relevant organizations with which the mediator is affiliated;

(10) Description of other relevant experience;

(11) Evidence of subscription to the Standards of Mediator Conduct in OAR 718-040-0100;

(12) Description of how fees are established; and

(13) Statement of case preference in the following form:

CATEGORIES OF CASES — Yes — No
Business — ____ — ____
Domestic Relations — ____ — ____
Neighborhood/Community — ____ — ____
Employment — ____ — ____
Small Claims — ____ — ____
Landlord-Tenant — ____ — ____
Probate — ____ — ____
Torts — ____ — ____
Other (Specify) — ____ — ____
_____ — ____ — ____
_____ — ____ — ____

Stat. Auth.: ORS 36.175
Stats. Implemented: ORS 36.200(1)
Hist.: DRC 1-1993, f. & cert. ef. 4-23-93; DRC 1-2003, f. 3-27-03, cert. ef. 4-1-03

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Employment Department
Chapter 471

Adm. Order No.: ED 4-2003(Temp)
Filed with Sec. of State: 3-27-2003
Certified to be Effective: 3-29-03 thru 9-24-03
Notice Publication Date:
Rules Amended: 471-010-0050
Rules Repealed: 471-010-0050(T), 471-010-0050(T)
Subject: The Employment Department is temporarily revising the Customer Information rule to allow certain workforce partners as designated by the Director to act as "Hosted Workers" for a specific pilot program, designated to end on September 1, 2003, at the Employment Department Field Offices listed in the pilot program written agreements.
Rules Coordinator: Richard L. Luthe—(503) 947-1724

471-010-0050
Definitions

(1) "Agent" means an individual who is authorized to act for or in the place of another individual or entity.

(2) "Customer" means any employer, individual, public agency, public employee (other than Oregon Employment Department staff in the performance of duty), non-governmental entity or member of the public that provides information to the department or receives a department service.

(3) "Confidential information" means information obtained from employing units, employees or other individuals pursuant to ORS Chapter 657.

(4) "Discharge of duties" means the duties related to the department programs and services pursuant to ORS Chapter 657, which includes, but is not limited to:

(a) Administration of the department including recruiting, hiring, appointing and evaluating Oregon Employment Department staff, host workers and others who may provide program, services or support functions for the department;

(b) Delivery of department and workforce programs and services in accordance with state or federal law;

(c) Cooperation with public employees in federal and state agencies administering unemployment insurance laws including, but not limited to system administration, coverage, collection of contributions, determination of eligibility and payment of benefits;

(d) Cooperation with public employees in state agencies administering recognized Oregon compensation and retirement, relief or welfare laws;

(e) Administration of federal or state grant programs awarded to the department in accordance with applicable laws, regulations or guidelines associated with the grant program;

(f) General duties of an agency head including, but not limited to cooperation with law enforcement and elected officials; or

(g) Cooperation with public employees in federal and state agencies charged with enforcing anti-discrimination and fair employment practice laws.

(5) "Functional Control" means functional supervision by an Employment Department management employee over the work activities of a hosted worker, including but not limited to assigning and reviewing work, providing feedback and training, and expectations for making corrective action, primarily but not necessarily regarding the employment service data system.

(6) "Governmental planning functions" mean duties authorized by law that are not regulatory or enforcement in nature which are undertaken by state agencies or political subdivisions as defined in ORS 657.097 to facilitate policy decisions. These functions include, but are not limited to modeling, impact analysis, projections and forecasting, but do not include the development or implementation of employer surveys unless specifically required by law.

(7) "Hosted worker" means:

(a) A non-departmental employee or volunteer who works within the functional control of an Employment Department management employee, providing services that are in alignment with the Department's mission. Typical hosted workers include VA (Veterans Administration) work-study students, Green Thumb (Older Worker Program) providers, and those from Summer Teacher Exchange or Student Intern programs. It does not include employees from workforce partners; or

(b) Certain workforce partners as designated by the Director to act as "Hosted Workers" for a specific pilot program, designated to end on September 1, 2003, at the Employment Department Field Offices listed in the pilot program written agreements.

(8) "One-Stop delivery system" means the workforce development activities provided by partner entities as authorized by the Workforce Investment Act and HB 3835 (Chapter 684; Oregon Laws 2001) described in Memorandums of Understanding developed by workforce investment boards and approved by the Governor's Office of Education & Workforce Policy.

(9) "Party" has the same meaning as in ORS 183.310(6).

(10) "Person" has the same meaning as in ORS 183.310(7).

(11) "Recognized compensation and retirement, relief or welfare laws," means the following:

(a) Indigent Defense Program administered by the State Court Administrator pursuant to ORS 151.430 et. seq.;

(b) Compensation of Crime Victims administered by the Department of Justice pursuant to ORS 147.005 et. seq.;

(c) Foster care maintenance payments for youth administered by the State Office for Services to Children and Families and the Oregon Youth Authority pursuant to ORS 420.810 et. seq.;

(d) Maintenance payments to individuals with occupational handicaps administered by the Department of Human Services, Vocational Rehabilitation Division pursuant to ORS 344.511 et. seq.;

(e) Housing for low income individuals administered by local housing authorities pursuant to ORS Chapter 456; and

(f) Department of Human Services, Seniors and People with Disabilities Division.

(12) "Third Party" means an individual or entity other than an agent to whom the customer has authorized and directed disclosure.

(13) "Written disclosure agreement" means an interagency or other applicable agreement for sharing or disclosing information by written, electronic, paper, verbal or other means.

(13) "Workforce Investment Act" means the federal Workforce Investment Act of 1998 as codified in Public Law 105-220.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.665 & ORS 657
Hist.: 1DE 150, f. & ef. 2-9-76; 1DE 152, f. 9-28-77, ef. 10-4-77; 1DE 6-1980, f. & ef. 9-8-80; 1DE 2-1984, f. & ef. 9-28-84; 1DE 3-1985, f. & ef. 12-16-85; ED 4-1994, f. & cert. ef. 9-2-94; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 2-2000(Temp), f. 6-9-00, cert. ef. 6-11-00 thru 12-8-00; ED 7-2000, f. 12-1-00, cert. ef. 12-3-00; ED 10-2001, f. 9-28-01, cert. ef. 9-30-01; ED 7-2002(Temp), f. 9-27-02, cert. ef. 9-29-02 thru 3-28-03; ED 4-2003(Temp), f. 3-27-03, cert. ef. 3-29-03 thru 9-24-03

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Adm. Order No.: ED 5-2003
Filed with Sec. of State: 4-11-2003
Certified to be Effective: 4-13-03
Notice Publication Date: 2-1-03
Rules Amended: 471-030-0036
Subject: The Employment Department is proposing to adopt new rule to allow that an individual who is not willing to or capable of working a particular shift because of a lack of child care may remain eligible for benefits.
Rules Coordinator: Richard L. Luthe—(503) 947-1724

471-030-0036
Eligibility Factors

(1) In considering suitable work factors under ORS 657.190 and for purposes of determining eligibility under ORS 657.155(1)(c), the Director may require an individual to actively seek the type of work the individual is most capable of performing due to prior job experience and training except that:

(a) If an individual is unable to secure the individual's customary type of work after contacting the potential employers in the labor market where benefits are being claimed, the Director may require the individual to seek less desirable but similar work or work of another type which the individual is capable of performing by virtue of experience and training.

(b) If the type of work an individual is most capable of performing does not exist in the labor market where the individual is claiming benefits, the Director may require the individual to seek any work that exists in the labor market for which the individual is suited by virtue of experience and training.

(c) After the individual has contacted the potential employers in the labor market where benefits are being claimed and is still unable to obtain work as described in 1(a) and (b) of this section, the Director may require the individual to further expand work-seeking activities.

(2) For the purposes of ORS 657.155(1)(c), an individual shall be considered able to work in a particular week only if physically and mentally capable of performing the work he or she actually is seeking during all of the work week customary for the type of work being sought except:

(a) An occasional and temporary disability for less than half of a customary work week shall not result in a finding that the individual is unable to work for that week; and

(b) An individual with a permanent or long-term "physical or mental impairment" (as defined at 29 CFR §1630.2(h)) which prevents the individual from working full time or during particular shifts shall not be deemed unable to work solely on that basis so long as the individual remains available for some work.

(3) For the purposes of ORS 657.155(1)(c), an individual shall be considered available for work if, at a minimum, he or she is:

(a) Willing to work full time, part time, and accept temporary work opportunities, during all of the usual hours and days of the week customary for the work being sought, unless such part time or temporary opportunities would substantially interfere with return to the individual's regular employment; and

(b) Capable of accepting and reporting for any suitable work opportunities within the labor market in which work is being sought, including temporary and part time opportunities; and

(c) Not imposing conditions which substantially reduce the individual's opportunities to return to work at the earliest possible time; and

(d) Physically present in the normal labor market area as defined by section (5) of this rule, every day of the work week customary for the work being sought, unless:

(A) The individual is actively seeking work outside his or her normal labor market area; or

(B) The individual is infrequently absent from the normal labor market area for reasons unrelated to work search, for less than half of the work week customary for the work being sought, and no opportunity to work or referral to work was missed by such absence.

(e) However, an individual with a permanent or long-term physical or mental impairment (as defined at 29 CFR §1630.2(h)) which prevents the individual from working full time or during particular shifts shall not be deemed unavailable for work solely on that basis so long as the individual remains available for some work.

(f) An individual will be considered not available for work if he or she fails or refuses to seek the type of work required by the Director pursuant to section (1) of this rule.

(g) Providing the individual is otherwise eligible for benefits pursuant to OAR 471-030-0036(3)(a) through (f), a person who has been found to be qualified for benefits under the provisions of ORS 657.176(2)(f) or (g) shall be considered available for work only during weeks in which the individual is enrolled in and participating in a recognized drug or alcohol treatment program if such participation was a condition in the determination to allow benefits. This provision does not apply if the individual has satisfactorily completed the course of treatment in accordance with the terms and conditions of the recognized treatment program.

(A) An individual is participating when engaged in a course of treatment through a recognized drug or alcohol rehabilitation program;

(B) A recognized drug or alcohol rehabilitation program is a program authorized and licensed under the provisions of OAR Chapter 415.

(4) Notwithstanding the provisions of OAR 471-030-0036(3), an individual who is not willing to or capable of working a particular shift because of a lack of care for any child under 13 years of age or a child with special needs under the age of 18 who requires a level of care over and above the norm for his or her age shall be considered available for work if:

(a) The work the individual is seeking is customarily performed during other shifts in the individual's normal labor market area as defined by OAR 471-030-0036(6); and

(b) The individual is willing to and capable of working during such shift(s).

(5) For purposes of ORS 657.155(1)(c) an individual is actively seeking work when doing what an ordinary and reasonable person would do to return to work at the earliest opportunity. In determining whether an individual is conducting an active search for work, the Employment Department may consider among other factors, length of unemployment, economic conditions in the individual's labor market and prospective job openings, weather conditions affecting occupations or industries, seasonal aspects of the individual's regular occupation, expected date of return to work with regular employer or in regular occupation, seniority status of individual, registration with a union hiring hall and normal practices for obtaining the type of work which the individual is seeking pursuant to section (1) of this rule.

(6)(a) An individual's normal labor market shall be that geographic area surrounding the individual's permanent residence within which employees in similar circumstances are generally willing to commute to seek and accept the same type of work at a comparable wage. The geographic area shall be defined by local employees of the Employment Department, based on criteria set forth in this section;

(b) When an individual seeks work through a union hiring hall, the individual's normal labor market area for the work sought is the normal referral jurisdiction of the union, as indicated by the applicable contract.

(7) Nothing in this rule shall prohibit the individual from seeking work in other labor market areas in this or any other state. The geographic area shall be defined by local office employees of that State Employment Security Agency, based on the criteria outlined in section (5) of this rule as though the individual maintained a permanent residence in that labor market.

Stat. Auth.: ORS 657.610
Stats. Implemented: ORS 657.155

Hist.: 1DE 151, f. 9-28-77, ef. 10-4-77; 1DE 4-1979(Temp), f. & ef. 7-5-79; 1DE 5-1979, f. & ef. 8-27-79; 1DE 1-1982, f. & ef. 6-30-82; ED 2-1992, f. & cert. ef. 6-29-92; ED 5-1994(Temp), f. 10-13-94, cert. ef. 10-16-94; ED 2-1997, f. 10-24-97, cert. ef. 11-3-97; ED 5-2003, f. 4-11-03, cert. ef. 4-13-03

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Land Conservation and Development Department
Chapter 660

Adm. Order No.: LCDD 2-2003(Temp)
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 3-28-03 thru 9-23-03
Notice Publication Date:
Rules Amended: 660-022-0030
Subject: Provides no building size limitation on the siting of new industrial uses on abandoned or diminished mill sites located within Unincorporated Communities, increases the building size limitations for new industrial uses within unincorporated communities; and clarifies certain provisions.
Rules Coordinator: Victoria J. Schiller—(503) 373-0050, ext. 231

660-022-0030
Planning and Zoning of Unincorporated Communities

(1) For rural communities, resort communities and urban unincorporated communities, counties shall adopt individual plan and zone designations reflecting the projected use for each property (e.g., residential, commercial, industrial, public) for all land in each community. Changes in plan or zone designation shall follow the requirements to the applicable post-acknowledgment provisions of ORS 197.610 through 197.625.

(2) County plans and land use regulations may authorize any residential use and density in unincorporated communities, subject to the requirements of this division.

(3) County plans and land use regulations may authorize only the following new or expanded industrial uses in unincorporated communities:

(a) Uses authorized under Goals 3 and 4;

(b) Expansion of a use existing on the date of this rule;

(c) Small-scale, low impact uses;

(d) Uses that require proximity to rural resource, as defined in OAR 660-004-0022(3)(a);

(e) New uses that will not exceed the capacity of water and sewer service available to the site on the effective date of this rule, or, if such services are not available to the site, the capacity of the site itself to provide water and absorb sewage;

(f) New uses more intensive than those allowed under subsection (a) through (e) of this section, provided an analysis set forth in the comprehensive plan demonstrates, and land use regulations ensure:

(A) That such uses are necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;

(B)That such uses would not rely upon a work force served by uses within urban growth boundaries; and

(C) That the determination of the work force of the community and surrounding rural area considers the total industrial and commercial employment in the community and is coordinated with employment projections for nearby urban growth boundaries;

(g) New uses, sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products, provided the uses will be located only on the portion of the mill site that was zoned for industrial uses on the effective date (October 28, 1994) of this rule.

(4) County plans and land use regulations may authorize only the following new commercial uses in unincorporated communities:

(a) Uses authorized under Goals 3 and 4;

(b) Small-scale, low impact uses;

(c) Uses intended to serve the community and surrounding rural area or the travel needs of people passing through the area.

(5) County plans and land use regulations may authorize hotels and motels in unincorporated communities only if served by a community sewer system and only as provided in subsections (a) through (c) of this section:

(a) Any number of new motel and hotel units may be allowed in resort communities;

(b) New motels and hotels up to 35 units may be allowed in an urban unincorporated community, rural service center, or rural community if the unincorporated community is at least 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, regardless of its proximity to any other UBG;

(c) New motels and hotels up to 100 units may be allowed in any urban unincorporated community that is at least 10 mile from any urban growth boundary.

(6) County plans and land use regulations shall ensure that new or expanded uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

(9) County plans and land use regulations for lands within unincorporated communities shall be consistent with acknowledged metropolitan regional goals and objectives, applicable regional functional plans and regional framework plan components of metropolitan service districts.

(10) For purposes of this section, a small-scale, low impact commercial use is one which takes place in an urban unincorporated community in a building or building not exceeding 8,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 4,000 square feet of floor space.

(11) For purposes of this section, a small-scale, low impact industrial use is one which takes place in an urban unincorporated community in a building or buildings not exceeding 60,000 square feet of floor space, or in any other type of unincorporated community in a building or buildings not exceeding 40,000 square feet of floor space.

Stat. Auth.: ORS 197.040 & ORS 197.245
Stats. Implemented: ORS 197.040
Hist.: LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 2-2003(Temp) f. & cert. ef. 3-28-03 thru 9-23-03

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Oregon Department of Aviation
Chapter 738

Adm. Order No.: AVIA 2-2003
Filed with Sec. of State: 4-3-2003
Certified to be Effective: 4-3-03
Notice Publication Date: 9-2-02
Rules Amended: 738-010-0025
Subject: This rule implements the final provisions of the new Rates and Charges Policy for State-Owned Airports approved by the State Aviation Board on June 17, 2002, setting forth specific updated fee schedules from the June 17, 2002 policy and conforming the "Types of Rates, Charges & Fees" section to fulfill approved policy intention.
Rules Coordinator: Carolyn R. Bolton—(503) 378-4880, ext. 223

738-010-0025
Types of Rates, Charges and Fees

Each user of an Oregon State-owned airport shall be charged one or more of the following types of rates, charges and fees for the use of the premises and the rights granted by the Department:

(1) Lessees leasing unimproved or improved land for non-commercial and commercial building sites or buildings and hangars on the State-owned portion of a State-owned airport shall be assessed an annual rate per square foot. All lease rates and charges applicable to a property shall be at fair market value as determined by appraisal or market rent analysis. Lessees shall also pay all real property taxes on the land portion of the lease property.

(a) Rent shall be paid to the Department as follows:

(A) Annually in full, with the first annual payment on or before the date the lease begins and subsequent payments on the anniversary date; or

(B) Monthly in equal installments, payable at the beginning of each month.

(b) In new or renewed leases where all or part of the capital improvements are constructed at the Department's expense, the Department reserves the right to amortize all or part of the construction costs of the capital improvements, plus a reasonable rate of return as part of the rent, during the term of the lease.

(2) A fuel flowage fee, not to exceed $0.12 per gallon, shall be assessed to each FBO for all types of fuel received from a commercial distributor. Fuel flowage fees shall be calculated from the FBO's fuel flowage delivery report and shall be paid in full not later than two working days after the conclusion of the reporting period.

(3) Each user with an agreement to access the State-owned airport property shall pay an access fee according to a published fee schedule. To ensure equity among all users, the schedule shall be based on the quantity and individual weight of user's aircraft that will access the airport.

(a) Each commercial operator shall pay a fee to the Department, either annually on the agreement anniversary date or monthly on or before the 25th, for the month then in process.

(A) The fee shall be the greater of:

(i) A fee for each aircraft based on the adjacent property, based on aircraft maximum gross landing weight as shown below; or

(ii) A minimum guaranteed amount determined by Airport Category, as follows:

$275.00 — Per month per Category II Airport
$175.00 — Per month per Category III and IV Airports
$75.00 — Per month per Category V Airport

(B) For multiple aircraft, payment shall be accompanied by a report listing each based aircraft showing aircraft class, N-number, aircraft type and the hangar or tie-down number where the aircraft is stored.

(b) Each non-commercial operator shall pay a fee for each aircraft based on the adjacent property, based on aircraft's maximum gross landing weight as set forth in Table 1 below. Payment is due either:

(A) Annually on the anniversary date of the agreement; or

(B) Monthly on or before the 25th, for the month then in process.

(c) At residential airparks, access fees as set forth below shall be assessed for each developed lot with airport access, whether or not the access is being utilized.

PER AIRCRAFT WEIGHT-BASED FEE FOR ALL STATE-OWNED AIRPORTS

Aircraft Weight Class — Weight Range — Monthly Fee Per Aircraft
Class 1 — Up to 5,000 lbs — $15 per month
Class 2 — 5,001 to 10,000 lbs — $24 per month
Class 3 — 10,001 to 20,000 lbs — $44 per month
Class 4 — 20,001 to 30,000 lbs — $66 per month
Class 5 — 30,001 to 40,000 lbs — $88 per month
Class 6 — 40,001 lbs. and over — $120 per month

(4) The Department shall offer tie-down facilities to based and transient aircraft at specific State-owned airports where there are no FBO-provided tiedowns. Based aircraft operators leasing an available tiedown shall pay rent for an entire year in full beginning at lease commencement and subsequently on each anniversary date of the lease, according to rates set forth below.

(a) NON-COMMERCIAL TIE-DOWN FEES:

Category II Airports — $20 per month
Category III and IV Airports — $17.50 per month
Category V Airports — $15 per month

(b) COMMERCIAL TIE-DOWN FEES: ODA shall rent tie-down facilities to FBOs wherever possible. ODA shall collect 30% of all tie-down revenue generated. There shall be no flat fee per tie-down. FBOs shall be responsible for providing a monthly accounting of all tie-down revenue received.

(5) The Department may negotiate individual fee and rent agreements at each State-owned airport, recognizing the diversity of services performed by the caretakers of different airports. These agreements shall be based on the specific services provided by the caretaker and the Department shall ensure that all the financial terms of those agreements are consistent among the same category of airport.

(6) The Director, or the Director's designee, may negotiate a unique rent or fee structure and enter into a special use agreement to benefit the general public, the local community or the State, for such activities as fire protection facilities, sports complexes, farming rights, weather equipment site leases and concession storage areas. All rental rates and charges applicable to special use agreements shall be determined through an analysis of similar activities, rates and charges at comparable airports in addition to consideration of overall benefit to the general public and the State aviation system.

(7) Each commercial operator conducting any type of agricultural-related aeronautical activity at a State-owned airport shall be required to lease property from the Department to store materials and equipment applicable to such operation. The rental rate shall be determined as of the day of occupancy.

(8) Each Mobile Service Provider (MSP) is required to obtain an annually renewable permit from the Department and pay the appropriate fee as represented below.

Category II Airports — $25 per month or $250 annually
Category III and IV Airports — $20.00 per month or $200 annually
Category V Airports — $15 per month or $150 annually

(9) The Director, or the Director's designee, may negotiate a specific rate or fee to support the Department's mission of developing and promoting aviation in the State of Oregon. Any such negotiated fee agreement will contain a fair and equitable rate structure, will not be used routinely and will only be considered for the most unique circumstances.

(10) The Director, or the Director's designee, may waive certain fees for government aircraft, in order to comply with Federal Airport improvement grant assurances. The Director, or the Director's designee, may also waive certain fees for an organization or person engaged in a non-profit aeronautical program or activity that benefits a charitable organization or community.

Stat. Auth.: ORS 835.035, ORS 835.040 & 835.112
Stats. Implemented: ORS 835.035, 835.040, 835.112 & 836.055
Hist.: 1AD 2-1981, f. & ef. 4-20-81; AVIA 3-2002, f. 10-30-02 cert. ef. 11-1-02; AVIA 4-2002, f. 11-27-02, cert. ef. 12-1-02; AVIA 2-2003, f. & cert. ef. 4-3-03

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Oregon Department of Education
Chapter 581

Adm. Order No.: ODE 5-2003(Temp)
Filed with Sec. of State: 4-2-2003
Certified to be Effective: 4-2-03 thru 9-15-03
Notice Publication Date:
Rules Amended: 581-020-0341
Subject: Senate Bill 255 amended the criteria that the State Board may use in reviewing a charter proposal to include all requirements as set out in ORS Chapter 338. Senate Bill 3395 included the prohibition of corporal punishment as one the statutes listed in OAR 338.115 with which charter schools must comply. The proposed amendments reflect those changes.

If you have a question regarding this rule, please contact Randy Harnisch at (503) 378-3600, ext. 2350 or e-mail randy.harnisch@state.or.us. For a copy of this rule, please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us
Rules Coordinator: Debby Ryan—(503) 378-3600, ext. 2348

581-020-0341
Procedure to Waive Certain Provisions of the Charter School Law

(1) A public charter school may petition the State Board of Education for a waiver of any provision of ORS 388. The written petition must

(a) Specify the reason(s) the charter school is seeking the waiver;

(b) Include a written statement of support for the waiver by the sponsor;

(c) Describe the policy, practice or rule that will operate in lieu of the law sought to be waived;

(d) Address the considerations set out in ORS 338.025(2); and

(e) Include any other relevant information requested by the Superintendent or his/her designee.

(2) Waivers granted by the State Board to a charter school may require amending the charter under the provisions of OAR 581-020-0311(5).

(3) The State Board of Education, upon receipt of a waiver petition, will review the petition and may grant the waiver upon a showing that approving the waiver would:

(a) Promote the development of programs by providers;

(b) Enhance the equitable access by underserved families to the public education of their choice;

(c) Extend the equitable access to public support by all students; or

(d) Permit the development of high quality programs of unusual cost.

(4) The State Board of Education may not waive any review provision under the Act or any provision under ORS 338.115(1)(a)-(o).

(5) This rule is retroactive to January 1, 2002.

Stat. Auth.: ORS 3263.051
Stats. Implemented: Ch. 200, OL 1999(SB 100)
Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 10-2002, f. & cert. ef. 4-12-02; ODE 5-2003(Temp), f. & cert. ef. 4-2-03 thru 9-15-03

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Oregon Economic and Community Development Department
Chapter 123

Adm. Order No.: EDD 3-2003
Filed with Sec. of State: 3-20-2003
Certified to be Effective: 3-21-03
Notice Publication Date: 12-1-02

Rules Adopted: 123-065-3800, 123-065-3830, 123-065-3850
Rules Amended: 123-065-3000, 123-065-3330, 123-065-3110, 123-065-3130, 123-065-3140, 123-065-3170, 123-065-3200, 123-065-3230, 123-065-3300, 123-065-3330, 123-065-3360, 123-065-3400, 123-065-3430, 123-065-3460, 123-065-3480, 123-065-3500, 123-065-3530, 123-065-3560, 123-065-3600, 123-065-4010
Rules Repealed: 123-065-3260
Subject: This rulemaking revises and updates essential and effective specification of procedures and criteria for implementation of the long-term tax incentives available for sizeable, job-creating investments in facilities located in certain rural enterprise zones. Tax incentives include an indefinite holiday from ad valorem taxation during constriction, locally approved 7 to 15 years of exemption on the facility's property, and 5 to 15 years of corporate tax credits as approved by the Governor. These revisions in particular arise from Oregon Laws 1999, chapter 1104, and Oregon Laws 2001, chapter 292.
Rules Coordinator: Margie N. Druery—(503) 986-0206

123-065-3000
Purpose and Scope

OAR 123-065-3000 to 123-065-3999 clarify and establish provisions of ORS 285B.781 to 285B.796 and 317.124 to 317.131 (2001) for determinations, procedures and requirements of the "up-to" 15-years of exemption from property taxes and corporate excise tax credits on a qualifying investment inside a nonurban enterprise zone (including but not limited to a reservation enterprise zone under ORS 285B.766 to 285B.776) in a county experiencing particular economic hardship. These administrative rules do not control fiscal parameters of actual implementation by the county assessor or the Department of Revenue, and they are not intended to supersede administrative rules in OAR chapter 150 for any such purpose.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1)
Stats. Implemented: ORS 285B.781 - ORS 285B.796 & ORS 317.124 - ORS 317.131
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3030
Relationship to Rest of Division

OAR 123-065-3000 to 123-065-3999 do not affect the administrative rules elsewhere in this division that interpret ORS 285B.650 to 285B.728, and unless the context or specific references demand otherwise, such other parts of this division of administrative rules likewise do not apply to OAR 123-065-3000 to 123-065-3999, except for such fundamental matters as the existence and attributes of an enterprise zone or the overall enterprise zone system.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1)
Stats. Implemented: ORS 285B.781 - ORS 285B.796 & ORS 317.124 - ORS 317.131
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3110
Definition of Economic Terms

As used in ORS 285B.781(3) (also, see OAR 123-065-3200):

(1) "Most recently revised annual average unemployment rate available" means the estimated percent of the civilian labor force that is unemployed on average for the entire previous calendar year and other relevant prior years, as benchmarked and published by the Employment Department in cooperation with the United States Bureau of Labor Statistics, as well as subsequent revisions to those percentages.

(2) "Most recently revised annual per capita income levels available" means the average annual per capita personal income level as published and revised by the Bureau of Economic Analysis of the United States Department of Commerce for the most recent calendar years available, as well as subsequent revisions to those levels.

(3) "Median ratio of the county to the equivalent of the entire United States for each year" means that for each year the annual average unemployment rate or average annual per capita personal income for the county is divided by the same year's national figure, and then from among the resulting quotients (ratios) equal numbers of highest and lowest values are ignored, so that the 'median ratio' is either the one remaining value or the two remaining quotients added together and divided by two.

(4) "Equal to or less than 0.75 over the last 10 years" means that the relevant median derived under section (3) of this rule is computed for the most recent 10 consecutive years, for which figures as described in section (2) of this rule are available, and that the resulting median is equal to or less than 0.75 rounded to the nearest hundredth.

(5) Using the latest available figures as described in section (1) of this rule:

(a) "At least 1.3 over the last 20 years or over the last 10 years" means that the relevant median derived under section (3) of this rule is computed separately for the most recent 20 consecutive years and the most recent 10 consecutive years, and that at least one of the two resulting medians is equal to or greater than 1.3 round to the nearest tenth.

(b) "Current unemployment rate of the county is at least one percentage point higher than the unemployment rate of the county for the immediately prior year" means, for example, that if a county's most recent unemployment rate is 7.2 percent, then the equivalent county rate for the immediately prior year is equal to or less than 6.2 percent.

(c) "Current unemployment rate of the county is at least 50 percent higher than the current unemployment rate of this state" means that the difference between the county's most recent unemployment rate and the equivalent statewide rate divided by that same statewide rate equals or exceeds 0.50 rounded to the nearest hundredth.

(6) "Negative net migration," as used in ORS 285B.781(3)(c) means the county's change in total population minus natural population change (births - deaths) is equal to or less than negative one (-1), based on the most recent county population estimates available from the Portland State University Center for Population Research and Census, in comparison to the latest official decennial population count by the U.S. Census Bureau at least three entire years before this most recent estimate.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.781
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98p; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3130
Definition of Facility

As used in ORS 285B.781 to 285B.796 and 317.124 to 317.131, "facility" or "facility site" has the meaning given in ORS 285B.781(4) and includes all of the following:

(1) A building or structure or group of two or more associated buildings and/or structures, located at a common site or proximately adjacent sites entirely inside the boundary of a single nonurban enterprise zone, such that each building or structure individually meets the following criteria:

(a) It is newly constructed beginning after the application for certification; or

(b) If previously constructed or occupied, at least 15 percent of the total investment cost pursuant to OAR 123-065-3500, consists of:

(A) New additions or modifications to the building or structure; and

(B) Other real or personal property newly acquired by the firm and newly installed in, at or on the building or structure.

(2) All of the real or personal property located on, at or inside a building or structure described in section (1) of this rule; the one exception is any vehicle, as well as device pulled, pushed or carried by a vehicle, that is designed to hold and transport people, goods or property on highways, waterways or railways beyond the zone boundary, including but not limited to aircraft, barges, carriages, railroad cars, trailers, trucks or ships.

(3) The taxable unit of land on which a building or structure described in section (1) of this rule is located.

(4) Any improvements to the land described in section (3) of this rule.

(5) Any property, otherwise described in this rule, that is leased by the business firm certified to receive the exemption under ORS 285B.786, but only if the firm is fully responsible for and pays all of the applicable ad valorem taxes potentially levied on such leased property through explicit provisions of the lease agreement.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.781 – ORS 285B.796 & ORS 317.124 - ORS 317.131
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3140
Definition of Facility in Service

As used in ORS 285B.781 to 285B.796 and 317.124 to 317.131, "the facility is placed in service" means that the facility is operating or is capable of operations for intended, commercial purposes of the certified business firm.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.781 - ORS 285B.796 & ORS 317.124 - ORS 317.131
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3170
Definition of Sponsor

As used in ORS 285B.781 to 285B.796 and 317.124 to 317.131, "sponsor" or "zone sponsor" means the city or county government or governments (or tribal government in the case of a reservation enterprise zone) that sponsor the nonurban enterprise zone in which the facility is located by virtue of having sought the zone's designation or a change in the zone boundary, consistent with relevant provisions in ORS 285B.650 to 285B.728 (or 285B.766 to 285B.776); one consequence of this is that all cosponsors of the zone shall jointly approve or exercise any and all actions under ORS 285B.781 to 285B.796 and 317.124 to 317.131, except for the particular adoption of a resolution as required under ORS 285B.783(3)(a).

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.781 - ORS 285B.796 & ORS 317.124 - ORS 317.131
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3200
Determining Eligible Nonurban Enterprise Zones

In determining if a county conforms with the definition of ORS 285B.781(3) that the county is a 'county with chronically low income or chronic unemployment':

(1) Typically in the spring, with the formal release, publication and availability of benchmarked annual unemployment rates for the previous year and other of the most recent relevant data, the Department shall analyze these data, along with the most recently revised data available for other relevant prior years, and ascertain which counties in the state satisfy the definition.

(2) The Department shall identify any existing nonurban enterprise zone in those counties, furnishing maps or other such information as feasible and appropriate for use by the general public and business firms, as well as respective local zone managers and county assessors.

(3) The official determination under this rule shall first take effect on July 1 next following formal availability of the latest relevant annual data and apply until and including June 30 of the next calendar year, pending:

(a) Revisions, if any, as described in OAR 123-065-3230; or

(b) The next annual determination under this rule.

(4) Conformance with the definition shall be achieved if OAR 123-065-3110(4), (5) or (6) is true, such that for 123-065-3110(5) to be true:

(a) OAR 123-065-3110(5)(a) is true; and

(b) OAR 123-065-3110(5)(b) or (c) is true.

Stat. Auth.: ORS 285A.075(5) & 285A.110
Stats. Implemented: ORS 285B.781 & ORS 285B.783
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3230
Revisions to Currently Eligible Nonurban Enterprise Zones

To ensure that the counties currently deemed as conforming with ORS 285B.781(3) accurately reflect the most recently revised annual data available for the nation, state and county, following a determination under OAR 123-065-3200:

(1) During the course of the year from July 1 to June 30, the Department shall strive to obtain any officially and publicly made revision or correction to relevant annual data.

(2) The Department shall review such revised data to determine whether it would alter the status of any county.

(3) Pursuant to section (2) of this rule, if any county is to be thus removed or added to the counties currently identified under OAR 123-065-3200:

(a) The effective date of any such change shall be the first day of the second month following the month in which the revised or corrected data was formally released or published; and

(b) The Department shall notify the county assessor and local zone manager of any nonurban enterprise zone in such a county and revise and reissue relevant lists, maps and other materials, as appropriate.

(4) A correct, prior determination under OAR 123-065-3200 or under this rule may not be retroactively altered.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.781 & ORS 285B.783
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3300
Written Agreement

For purposes of validating the existence of a requisite written agreement between a business firm and the sponsor of the nonurban enterprise zone under ORS 285B.783(3)(c) and (d):

(1) The agreement shall consist at a minimum of the following:

(a) Acknowledgment of the planned or pending application for certification under ORS 285B.783(1) and (2);

(b) Concise description of the firm's proposed investments, facility and workforce;

(c) Explanation of how the proposed investments, facility and workforce are expected to satisfy the particular requirements under ORS 285B.789, which are in no way superseded by the agreement;

(d) Identification of all the parties to the agreement and their representatives;

(e) Zone sponsor's explicit approval for the firm to receive the exemption under ORS 285B.786 on its qualifying facility;

(f) The sponsor's statement as to the number of consecutive tax years that will comprise the period of exemption beginning after the facility is placed in service, such that this period is only seven such years, if nothing to the contrary is stated about it being eight or more years (up to the maximum of 15 years); and

(g) With respect to additional conditions or requirements by the zone sponsor under ORS 285B.783(2)(e) and (3)(c):

(A) Indication that no such condition or requirement is imposed or requested; or

(B) Specification of any such condition or requirement, in accordance with OAR 123-065-2500 to 123-065-2599, including at a minimum methods for demonstrating satisfaction of the condition or requirement and explicit consequences for failure to satisfy the condition or requirement.

(2) The agreement may be:

(a) Part of a broader accord involving parties other than the firm and the sponsor, insofar as such an accord contains and cites the elements listed under section (1) of this rule; and

(b) Preauthorized, directly sanctioned by resolution or approved by other means of the zone sponsor or of each cosponsor as described in OAR 123-065-4120(3) or (4).

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110
Stats. Implemented: ORS 285B.783 & ORS 285B.786
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3330
Timing of Written Agreement

For purposes of the requisite written agreement under ORS 285B.783(3)(c) and (d) between a business firm and the sponsor of a nonurban enterprise zone:

(1) The agreement must be concluded, signed and dated by an authorized representative or representatives of the firm and of the zone sponsor or of each cosponsor:

(a) On or after the effective date on which:

(A) The zone is designated or the facility site is amended into the zone through a change in the boundary of the zone; and

(B) The county containing the facility site is officially determined to conform with the definition of ORS 285B.781(3), pursuant to OAR 123-065-3200 or 123-065-3230; and

(b) Before the corresponding effective date on which:

(A) The zone is terminated; and

(B) The county is not subject to a positive official determination as described in subsection (a)(B) of this section.

(2) The sponsor shall provide a copy of the concluded, signed and dated written agreement to the Department, which shall review the agreement and, if the following are accurate, issue a letter to be attached to the written agreement confirming that:

(a) As of the date of the agreement's execution, the county containing the facility site is officially determined to conform with the definition of ORS 285B.781(3), pursuant to OAR 123-065-3200 or 123-065-3230, and one party to the agreement is the sponsor of the nonurban enterprise zone; and

(b) The agreement satisfies applicable provisions of OAR 123-065-3300.

(3) Following the certification of the business firm under OAR 123-065-3430 or an effective date under subsection (1)(b) of this rule, the agreement may not be substantially modified, replaced, amended, supplemented or terminated, except as:

(a) Explicitly provided in the original version of the agreement; and

(b) Mutually accepted and documented by all parties to the agreement.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110
Stats. Implemented: ORS 285B.783 & ORS 285B.796
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3360
County/City Resolutions

For purposes of resolutions adopted by the governing body of a county or city under ORS 285B.783(3)(a):

(1) A criterion for certification is adoption of a resolution approving the exemption for the facility by the county and any city in which the facility is located, such that:

(a) Both the county and the city must adopt the resolution if any part of the facility is located in incorporated territory, but only the county, if the facility is located entirely in unincorporated territory;

(b) If such a county or city is the sponsor or a cosponsor of the zone, any authorization or approval of a written agreement pursuant to OAR 123-065-3300 by formal resolution of the city's or county's governing body shall automatically fulfill this criterion; and

(c) If such a county or city is neither the sponsor nor a cosponsor, it may nevertheless be a party to the written agreement in accordance with OAR 123-065-3300, but this criterion necessitating adoption of a formal resolution remains in effect.

(2) A resolution by the governing body of a city or county under section (1) of this rule or to approve a written agreement pursuant to OAR 123-065-3300 may be adopted at any time with respect to conclusion of the agreement or the effective dates under OAR 123-065-3330(1). However, if the resolution substantially contains, implements or provides for all or part of the agreement by the zone sponsor, as opposed to merely authorizing an otherwise operable agreement, the resolution must be adopted after final conclusion of the agreement and prior to termination of the zone in order for the business firm to be certified.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.783
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3400
Applying for Certification

For purposes of the application for certification under ORS 285B.783(1) and (2):

(1) In order for a business firm to receive the exemption on its facility under ORS 285B.786:

(a) The firm must do the following before hiring new employees to work at the proposed facility and before commencing any physical work on the facility, such as construction, reconstruction, additions, modifications or installations of any qualifying property:

(A) Fill out the latest revision of the Department of Revenue form #150-310-073 (CERTIFICATION APPLICATION Long-Term Rural Oregon Tax Incentive) as completely as the firm is capable of doing;

(B) Have the form signed and dated by the owner or authorized representative of the firm;

(C) Submit a signed original of the form to either the local zone manager representing the sponsor of the enterprise zone or the county assessor of the county in which the facility is located; and

(D) Submit a photocopy of the signed original of the form to either the local zone manager or the county assessor, whichever one does not receive the signed original under paragraph (C) of this subsection.

(b) With respect to the nonurban enterprise zone, submission of the application form under subsection (a) of this section must occur:

(A) On or after the effective date of the zone's designation or of a change to the zone boundary adding the facility site; and

(B) Before the effective date of the zone's termination.

(2) Submission of the application form under section (1) of this rule may occur before or after any relevant resolution, commitment, written agreement or effective date of official determination of nonurban enterprise zone eligibility in the county.

(3) Estimated numbers, anticipated dates or other expectations indicated in the application form under section (1) are to be based on the best and most current information available to the business firm and shall not be construed as binding in and of themselves. The business firm shall inform the local zone manager and county assessor in writing of any significant changes to such expectations.

(4) The commitments made by the business firm, as required, in the application form under section (1) or otherwise during the certification process shall be accepted at face value for purposes of certifying the firm, but such a commitment shall not relieve the firm of actually meeting any applicable requirement under ORS 285B.781 to 285B.796 and 307.124 to 307.131.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 285A.075(5) & ORS 285A.110
Stats. Implemented: ORS 285B.783
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3430
Certification

For purposes of ORS 285B.783(3) to (6), following submission of the application for certification as described in OAR 123-065-3400:

(1) The signatures of the local zone manager and county assessor approving the certification application are not valid if either signature occurs:

(a) After any part of the facility is placed in service;

(b) After the operational date specified in ORS 285B.796(2); or

(c) Before any of the following (unless formally reaffirmed after):

(A) The commitments by the firm in the application to meet requirements under ORS 285B.789;

(B) The relevant written agreement and the corresponding letter of confirmation by the Department, pursuant to OAR 123-065-3330;

(C) Any resolution by the sponsor or a cosponsor of the zone that authorizes or effects the written agreement in paragraph (B) of this subsection; or

(D) The relevant resolution or resolutions by the county/city in which the facility is located, pursuant to OAR 123-065-3360.

(2) Approval of the certification application may occur after:

(a) The effective date of the termination of the enterprise zone; or

(b) Commencement or conclusion of applicable hiring or physical work at or for the facility.

(3) Upon satisfaction of the criteria under ORS 285B.783(3) (except as qualified in this rule and OAR 123-065-3460), the local zone manager and the county assessor must approve the certification application, at which point:

(a) The business firm is "certified," such that it is eligible for the exemption under ORS 285B.786; and

(b) The zone manager and assessor shall send copies of the signed original certification application form with all relevant attachments to the firm, the Department and the Department of Revenue.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.783, ORS 285B.786, ORS 285B.789 & ORS 285B.796
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3460
Post-Certification

With certification pursuant to OAR 123-065-3430:

(1) In order for a certified business firm's facility to qualify for the exemption under ORS 285B.786, the firm shall submit written notification and information to the county assessor (and to the zone sponsor, Department or Department of Revenue, as requested), including but not limited to easily understood documentation on the following:

(a) All property comprising the facility and how it complies with OAR 123-065-3130;

(b) Ownership of any leased property at the facility and corresponding lease agreements;

(c) When and how any applicable requirement under ORS 285B.789 is satisfied; and

(d) When and by what measure the facility has been placed in service.

(2) In the absence of or in addition to, but not in lieu of, applicable provisions in this division of administrative rules or OAR chapter 150, the county assessor may arrange with the business firm in writing for certain methods and mechanisms that verify or enforce compliance with section (1) of this rule and the applicable requirements under ORS 285B.789, as a condition of the county assessor's approval of the certification application, regardless of the zone sponsor's concurrence or incorporation of such arrangements in the written agreement under ORS 285B.783(3)(c).

(3) Failure by the county assessor to seek or obtain the arrangements described in section (2) of this rule shall not relieve the business firm of the obligation to demonstrate its compliance with and satisfaction of any applicable requirement.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.786, ORS 285B.789, ORS 285B.790 & ORS 285B.793
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-1998; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3480
Subsequent Investments

For purposes of real or personal property as described in OAR 123-065-3130 but newly located, completed and placed in service at the facility site after the January 1 "assessment date" cited in ORS 285B.786(1)(c):

(1) Any such property is subject to the exemption from property taxes under ORS 285B.786 while a part of the facility for the remainder of the 7 to 15 tax years available.

(2) Neither additional operations nor the introduction of such property at the facility shall cause any new, additional year or increase to the exemption period on that or any property.

(3) A certified business firm may receive another (potentially overlapping) period of exemption affecting the same facility only if the firm, in accordance with ORS 285B.783, again:

(a) Applies for certification;

(b) Meets the relevant criteria for certification;

(c) Satisfies the applicable requirements to qualify for the exemption; and

(d) Undertakes additional operations at the facility.

(4) The firm or the applicable facility must accomplish the items under section (3) of this rule entirely independent of and in addition to the respective actions and investments pertaining to the certification or qualification for any previously granted exemption under ORS 285B.786.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110 & ORS 285B.668(1)
Stats. Implemented: ORS 285B.783, ORS 285B.786 & ORS 285B.789
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3500
Minimum Size of Investment

For purposes of the minimum investment in the facility under ORS 285B.789(1)(a), (2)(a), (3)(a) or (4)(b) to be made by a certified business firm:

(1) Relevant investment costs for meeting the minimum shall include only expenditures that can be documented through existing records or retrospective compilation of evidence, and that are incurred in association with property owned or leased by the firm that is part of the facility, for the following:

(a) Construction, reconstruction, modification or installation of such property, including but not limited to materials, supplies, labor, building contractors, engineering, physical connections to utilities, off-site development fees/assessments, and so forth; or

(b) Purchase of any such property. (Alternatively, the current real market value shall be used for such property that is newly moved or transferred to the facility site but that was already owned or leased by the firm or already owned by the owner of any such leased property)

(2) Regardless of association with the facility or property, relevant investment costs do not include:

(a) Cost of financing, public permit or service charges, legal fees, the value of the firm's own management, expenditures to maintain finished property and so forth;

(b) Cost or value of property that at the time of certification is already owned or leased by the firm and located at the facility site; or

(c) Expenditures associated with purchases or with construction, reconstruction, modifications or installations of property completed on or after January 1 immediately following when the facility is placed in service.

(3) The minimum for required investments costs may not be greater than $25 million, except for purposes of ORS 285B.789(3)(a).

(4) The firm shall provide evidence to the assessor in writing when this requirement is satisfied as soon as possible after such satisfaction is verifiable.

(5) Property excluded under this rule does not necessarily affect what property may be exempted under ORS 285B.786, which depends on being part of the qualifying facility as described in OAR 123-065-3130.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.789 & ORS 285B.790
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3530
Minimum Hiring

For purposes of the minimum hiring and employment to be met and maintained at an exempted facility under ORS 285.789(1)(b), (2)(c), (3)(d) or (4)(d) by a certified business firm:

(1) Employees are persons each working directly or indirectly for the firm in excess of 32 hours per week (consistent with OAR 123-065-4060) in an established, permanent position.

(2) Twelve months prior to when the facility is placed in service, the firm shall establish and make available information showing the total number of employees, each of whose job is located and performed:

(a) At the facility site; and

(b) Within the state as a whole other than at the facility site.

(3) The minimum requirements are met if:

(a) The number of employees located and performing their jobs at the facility site minus the corresponding number of employees under subsection (2)(a) equals or exceeds the respective minimum; and

(b) The number of employees of the firm in the state as a whole other than at the facility site is the same or greater than the corresponding number of employees under subsection (2)(b) of this rule.

(4) The firm shall provide evidence to the assessor in writing when each subsection of section (3) of this rule is satisfied as soon as possible after such satisfaction is achieved, which for subsection (3)(a) of this rule must occur on or before December 31 not more than the following number of years after December 31 of the year in which the facility is placed in service:

(a) Five years for ORS 285B.789(1)(4); or

(b) Three years for ORS 285B.789(2)(3).

(5) Regardless of when subsection (3)(a) of this rule is met per section (4) of this rule, satisfaction of subsection (3)(b) of this rule must occur at the same time or within 36 months afterwards.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110
Stats. Implemented: ORS 285B.789 & ORS 285B.790
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3560
Minimum Average Annual Compensation

For purposes of the minimum average annual compensation to be met and maintained at an exempted facility under ORS 285B.789(1)(c), (2)(b), (3)(c) or (4)(c) by a certified business firm:

(1) The total remuneration during a calendar year shall be considered if it is:

(a) In the form of wages, salary, bonuses, shift differential, overtime pay, profit-sharing, paid vacation, or financial benefits such as life insurance, medical coverage or retirement plans, but excluding sales commissions, free meals, club membership, workplace amenities, benefits mandated by federal, state or local law, and so forth; and

(b) Paid to any employee located and performing work directly or indirectly for the firm at the facility site, regardless of hours worked per week or the permanence of the employee's position.

(2) For each job at the facility in which the employee works less than 40 hours per week or for less than the entire calendar-year period, the actual annual compensation under section (1) of this rule shall be multiplied by the appropriate inverse time factor in order to approximate the equivalent level of annual compensation, as if the job is worked full-time for the entire year.

(3) Each employee's total annual compensation under section (1) or (2) of this rule shall be summed and divided by the number of applicable employees or positions to derive an average.

(4) On or before December 31 five years after December 31 of the year in which the facility is placed in service, the computed average under section (3) of this rule must equal or exceed 150 percent of (1.5 times) the most recent average annual covered payroll per employee for all industries in the county in which the facility site is located, as then currently available and reported by the Employment Department.

(5) The firm shall provide evidence to the assessor in writing when section (4) of this rule is satisfied as soon as possible after such satisfaction is achieved.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110
Stats. Implemented: ORS 285B.789 & ORS 285B.790
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3600
Maintaining Employment and Compensation

(1) Following initial satisfaction of the minimum requirement for total employment or average annual compensation pursuant to OAR 123-065-3530 and 123-065-3560 at a facility exempted under ORS 285B.786, the facility's applicable employment or compensation may never be less than the mandatory minimum level, until after December 31 during the final tax year of the exemption period.

(2) The mandatory minimum level for average annual compensation at the facility remains fixed, regardless of how much:

(a) The facility's annual average compensation initially exceeded the county's then current average annual wage level; or

(b) The county's average annual wage subsequently rises during the exemption period.

(3) Notwithstanding section (1) of this rule, the facility's applicable employment or compensation may fall below the mandatory minimum level under certain exceptional circumstances, including but not limited to the following:

(a) A natural disaster substantially disrupting the facility's operations;

(b) Six or more months of severe economic troubles or military conflict significantly affecting the United States, other major foreign economies and the firm's industry;

(c) Unforeseen coincidence of vacant positions at the facility, such as the case in which previously hired persons have died, voluntarily quit or been fired for cause; or

(d) Temporary curtailment in the operation of the facility lasting no longer than twelve months to undertake major repairs in order to correct mechanical breakdowns that are unusual and unexpected within normal engineering parameters and maintenance programming.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285B.789, ORS 285B.790 & ORS 285B.793
Hist.: EDD 7-1998(Temp), f. & cert. ef. 4-30-98 thru 8-31-98; EDD 14-1998, f. 8-31-98, cert. ef. 9-1-98; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3800
Request for Tax Credit

For purposes of being approved for the tax credit under ORS 317.124(3), unless otherwise directed by the Governor or by the Director:

(1) A request for the credit shall be formally submitted to the Director from an authorized executive of the corporation, preferably pursuant to relevant local approval and certification under ORS 285B.783.

(2) Official consideration of the request by the Governor shall not be expected prior to such local approval.

(3) The request must explicitly indicate:

(a) That the corporation is seeking gubernatorial approval;

(b) When it would expect to begin claiming such credits; and

(c) Any preferred length of time during which credits may be claimed.

(4) The request shall contain the best possible information about the corporation's future income and plans to use the credit, as necessary to estimate the value and applicability of the tax credit.

(5) The Director will forward the request to the Governor, which may be accompanied by a recommendation or (as warranted) by the following:

(a) Background information and analysis about the corporation, the proposed facility, tax impacts, the local community and so forth; and

(b) Benefit of consultation with other state agencies including but not limited to the Department of Revenue.

(6) Approval of the request may be conditioned on additional commitments by the corporation as contained in any form of agreement or arrangement with the State.

(7) The following is considered exempt from public release under ORS 192.502 and other laws:

(a) Any information received through the corporation as described in section (4) of this rule; and

(b) The request and any other information associated with it, whether drafted by the Department or otherwise generated, unless and until such time as the Governor has approved the request, thereby deeming such information to be final.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110 & ORS 285B.668(1)
Stats. Implemented: ORS 317.124
Hist.: EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3830
Tax Credit

(1) To be effective, the Governor's approval of a corporate excise or income tax credit under ORS 317.124 may at a minimum take the form of a letter, memo or similar such document that:

(a) Names the corporation and refers to its qualifying facility;

(b) Simply grants the tax credit, approves the corporation's request or directs necessary action by State officials;

(c) Defines the length of the period during which the tax credits may be claimed; and

(d) Is done and effective prior to the ultimate due date for filing a tax return for the corporation's income/excise tax year beginning in the third calendar year after the calendar year in which the facility was placed in service.

(2) To claim the tax credit, as approved by the Governor, the certified business firm shall fill out the latest revision of the Department of Revenue form #150-102-043 (LONG-TERM ENTERPRISE ZONE FACILITIES CREDIT) and submit it with the tax return for each applicable income/excise tax year of the corporation.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 285A.075(5), ORS 285A.110 & ORS 285B.668(1)
Stats. Implemented: ORS 317.124
Hist.: EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-3850
Revenue Distribution to Local Zone Sponsor

(1) Consistent with OAR 123-065-2700(2)(c), the sponsor of an enterprise zone containing the facility of a corporation that claims the tax credit under ORS 317.124 may receive funds through the Department of Revenue from the Long Term Enterprise Zone Fund established under ORS 317.127.

(2) The sponsor shall annually receive such funds, unless the amount to be distributed under ORS 317.131 is less than or equal to the property taxes otherwise due to the relevant (special service) taxing districts — but for the exemption on the facility under ORS 285B.786 — with the property tax year corresponding to the state government fiscal year in which the funds are distributed.

(3)(a) If the amount to be distributed exceeds these foregone property taxes, then the remaining amount is distributed to the zone sponsor; or

(b) If there is no relevant exemption under ORS 285B.786 for the property tax year, then the entire amount is distributed to the zone sponsor.

(4) For purposes of section (3) of this rule, the zone sponsor is responsible for making timely arrangements, so that:

(a) The sponsor can receive distributed funds in a way that effectively ensures the Department of Revenue of having made payment to the zone sponsor (including but not limited to a joint mechanism for all cosponsors, or through a deposit account administered by a single cosponsor on behalf of the entire zone sponsorship); and

(b) The applicable provisions of ORS chapter 294 and other state or local laws are satisfied with regard to collecting, holding and using such funds.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110 & ORS 285B.668(1)
Stats. Implemented: ORS 317.124
Hist.: EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

123-065-4010
Relationship to Rest of Division

OAR 123-065-4000 to 123-065-4999 do not affect the administrative rules elsewhere in this division that interpret ORS 285B.781 to 285B.796 and 307.124 to 307.131, and unless the context or specific references demand otherwise, such other parts of this division likewise do not apply to OAR 123-065-4000 to 123-065-4999. However, OAR 123-065-0000 to 123-065-2999, including but not limited to statutory terms, boundary changes, termination or designation of enterprise zones, and the duties and additional requirements of a zone sponsor, do affect and interrelate with these administrative rules.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110 & ORS 285B.668(1)
Stats. Implemented: ORS 285B.650 & ORS 285B.692 - ORS 285B.728
Hist.: EDD 9-2000, f. & cert.. ef. 5-2-00; EDD 15-2002(Temp), f. & cert. ef. 7-8-02 thru 1-3-03; EDD 3-2003, f. 3-20-03, cert. ef. 3-21-03

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Rules Amended: 123-005-0000, 123-005-0010, 123-005-0020, 123-005-0030, 123-008-0005, 123-008-0010, 123-008-0015, 123-008-0020, 123-008-0025, 123-008-0030, 123-008-0035, 123-008-0040,

123-024-0011, 123-024-0021, 123-075-0000, 123-087-0000, 123-087-0010, 123-087-0020, 123-087-0030, 123-087-0040

Rules Repealed: 123-001-0000, 123-001-0005, 123-001-0010, 123-005-0040, 123-012-0005, 123-012-0010, 123-012-0015, 123-012-0020, 123-012-0023, 123-012-0025, 123-012-0030, 123-012-0035, 123-012-0040, 123-012-0045, 123-012-0050, 123-012-0055, 123-012-0060, 123-012-0065, 123-012-0070, 123-012-0075, 123-012-0080, 123-012-0085, 123-012-0090, 123-012-0095, 123-012-0100, 123-012-0120, 123-012-0130, 123-012-0140, 123-012-0145, 123-012-0150, 123-012-0155, 123-012-0160, 123-012-0165, 123-015-0005, 123-015-0010, 123-015-0015, 123-040-0000, 123-040-0005, 123-040-0010, 123-040-0015, 123-040-0020, 123-040-0025, 123-040-0030, 123-040-0035, 123-050-0000, 123-050-0010, 123-050-0020, 123-050-0030, 123-050-0040, 123-050-0050, 123-050-0060, 123-050-0070, 123-050-0080, 123-050-0090, 123-064-0000, 123-064-0010, 123-064-0020, 123-064-0030, 123-064-0040, 123-064-0050, 123-064-0060, 123-068-0001, 123-068-0010, 123-068-0020, 123-068-0030, 123-072-0001, 123-072-0005, 123-072-0010, 123-073-0000, 123-073-0010, 123-073-0020, 123-073-0030, 123-075-0005, 123-075-0010, 123-075-0015, 123-075-0020, 123-075-0025, 123-075-0030, 123-075-0035, 123-085-0000, 123-085-0010, 123-085-0020, 123-085-0030, 123-085-0040, 123-085-0050, 123-085-0060, 123-085-0070, 123-085-0080, 123-086-0000, 123-086-0010, 123-086-0020, 123-086-0030, 123-086-0040, 123-086-0050, 123-086-0060, 123-086-0070, 123-086-0080, 123-096-0000, 123-096-0010, 123-096-0020, 123-096-0030, 123-096-0040, 123-096-0050, 123-096-0060, 123-096-0070

Subject: This rulemaking generally updates, revises and clarifies general policies and basic functions of the Oregon Economic and Community Development Department, including revisions to the following department activities and programs: Rulemaking Procedures and Committees of the Oregon Economic and Development Commission; Public records; Land use; Distressed areas; Private sector contributions.

This rulemaking also repeals the administrative rules for purposes and programs that are no longer in existence, or for which grant and loan funds are no longer specifically allocated, as follows: Emergency economic assistance; Umbrella revenue bond program; Site-specific infrastructure grants; County fairs and special events; Museum grants; Industrial modernization; Key industry training; Dislocated worker program; Community facility grants (OAR division reserved for future general administrative rules that might be developed for policies affecting multiple programs that finance "community facilities."); Loaned personnel; Employee salaries contributed by the private sector; Flexible networks.

Rules Coordinator: Margie N. Druery—(503) 986-0206

123-001-0050
Definitions

For purposes of this division of administrative rules, and generally throughout this chapter of administrative rules, unless the context demands otherwise:

(1) Commission means the State of Oregon Economic and Community Development Commission appointed under ORS 285A.040, which is interchangeable with the "Economic Development Commission" as it existed prior to July 6, 1999.

(2) Department means the State of Oregon Economic and Community Development Department as (re)organized under ORS 285A.070, which is interchangeable with the "Economic Development Department" as it existed prior to July 6, 1999.

(3) Director means the director of the Department as appointed under ORS 285A.070.

(4) Governor means the sitting Governor of the State of Oregon, pursuant to Article V of the Constitution of Oregon.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 183.335, 183.341 & 183.355, & ORS 285A & 285B; OL 1999, Ch. 509
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-001-0100
Notice Rule (Proposed Permanent Rulemaking)

In proposing to amend, repeal or adopt permanent administrative rules for this chapter, pursuant to ORS 183.335(1)(a) and 183.341(4):

(1) The Department shall at a minimum do the following with respect to those listed in section (2) of this rule:

(a) Furnish a copy of the notice of proposed rulemaking/hearing, as published or to be published in the Oregon Bulletin consistent with ORS 183.335(1)(b); and

(b) Make available a copy of the proposed rule language to be amended or adopted.

(2) All of the following are included for purposes of section (1) of this rule:

(a) The current list of persons, organizations and so forth that have requested notification, in accordance with ORS 183.335(1)(c) and (8);

(b) Certain legislators, as prescribed in ORS 183.335(1)(d) and (15);

(c) Department of Land Conservation and Development, consistent with the time frame for subsection (b) of this section, for rules governing any program or activity affecting land use (see Division 008 of this chapter of administrative rules);

(d) The following organizations and media sources, consistent with the time frame for subsection (a) or (b) of this section:

(A) Associated Press;

(B) Association of Oregon Counties;

(C) Capitol Press Room;

(D) League of Oregon Cities; and

(E) Oregon Department of Administrative Services, Director's Office, for any substantial program change not arising directly from legislation; and

(e) Any other media source, person or party interested in or significantly affected by the proposed rulemaking, as determined by the Department, depending on the particular nature and subject of the rules, which might include but is not limited to Economic Development Districts, Port Districts, Public Ports Association, Special Districts Association, Associated Oregon Industries, industry or contractor associations, nonprofit or labor organizations, local newspapers, business publications, local units of government, or state and federal agencies. This subsection may be carried out consistent with the time frame for subsection (a) or (b) of this section.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 183.335, 183.341 & 183.355, ORS 197.040 & 197.180, and Chapters 285A & 285B
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-001-0200
Model Rules of Procedure

(1) Division 001 and any statutorily mandated element in the other divisions of the State of Oregon Attorney General's Uniform and Model Rules (OAR Chapter 137), pursuant to the Administrative Procedures Act (ORS Chapter 183), are hereby incorporated into and adopted as part of this division of administrative rules, by reference. These and other relevant documents are published in the Attorney General's "Administrative Law Manual," which may be obtained from the Oregon Department of Justice, Publications Section, Justice Building Room 16, 1162 Court Street NE, Salem, OR 97301-4096.

(2) No internal guidance materials of the Department for purposes of administrative rules are incorporated into or adopted as part of this division of administrative rules, in any way, and such materials are not binding on the rulemaking procedures of the Department except insofar as they coincide with requirements pursuant to section (1) of this rule.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 183.335, 183.341 & 183.355, and Chapters 285A & 285B
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-001-0300
Waivers of Provisions Provided by Rule in This Chapter

The Director or the Director's designee may formally waive requirements otherwise prescribed by this chapter of administrative rules, if such a waiver serves to further the goals and objectives of ORS chapters 285A and 285B, and results in sound economic development or job creation in the state, such that:

(1) The requirement must be an invention of the administrative rule itself, and not arise from policies established by the Commission or from any state or federal law, including cases where state law might in some way be ambiguous, but the administrative rule is considered to correctly and optimally clarify or interpret that law;

(2) This rule applies whether or not the division of administrative rule similarly provides for waiver by the Director; and

(3) This rule does not interfere with other ways to make exceptions or to provide flexibility, as described elsewhere for certain administrative rules, and it is not meant to substitute for the timely amendment of administrative rules.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS Chapters 285A & 285B
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-001-0500
Commission Committees

For purposes of advisory and technical committees for the Commission:

(1) These committees are wholly different from, and this rule in no way applies to, statutory boards or commissions that are part of the Department, but whose appointment, authority, duties and relationship to the Commission, if any, are prescribed entirely apart from the Commission, in accordance with ORS 285A.110(2) and the following statutes:

(a) International Trade Commission under ORS 285A.125 to 285A.139;

(b) Oregon Arts Commission under ORS 359.010 to 359.137;

(c) Oregon Progress Board under ORS 285A.150 to 285A.168;

(d) Oregon Tourism Commission under ORS 285A.255 to 285A.285; and

(e) Any other public body similarly established by the Legislative Assembly.

(2) The committees under this rule, which are part of the Department and are public bodies as subsidiaries to the Commission, consist of two types:

(a) Statutory committees, whose existence, or certain attributes of which, are determined by law, and for which section (3) of this rule applies only insofar as it does not contradict the provisions of any such law; and

(b) Ad Hoc Committees established solely by authority of the Commission and operating at its discretion under ORS 285A.060.

(3) An Ad Hoc Committee ("it" for purposes of this section), as defined in subsection (2)(b) of this rule, is subject to the following parameters:

(a) It must be created by a formal and public action of the Commission for a certain definite period, or otherwise it may exist and operate until terminated or suspended by action of the Commission;

(b) The chair of the Commission shall be primarily responsible for appointing each of its members, which serve at the chair's pleasure (the Director or designee is always an ex officio member), and for determining its makeup and similarly fundamental attributes;

(c) The different geographic regions of this state shall be reflected in its representation, and at least 20 percent of the total number of its members shall equal (after rounding) the number of members residing east of the Cascade Range;

(d) Its purpose shall generally be to provide advice and recommendations to the Commission or the Department, although it may exercise on a day-to-day basis such duties or powers as the Commission delegates to it;

(e) It is subject to the Commission's review and to reporting its decisions, actions and agenda for future meetings, which any member of the Commission may attend;

(f) It may adopt standards and procedures for its activities, with or without direction from the Commission; and

(g) Regardless of anything described in this chapter of administrative rules, the Commission reserves the discretion to change any delegation, directive and so forth related to its future functions, at any time.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.060
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-001-0520
Finance Committee for the Commission

The Finance Committee is an Ad Hoc Committee that has been formed and empowered by the Commission in accordance with OAR 123-001-0500(3), such that:

(1) The Finance Committee is charged (pursuant to divisions of this chapter of administrative rules) with the following:

(a) Immediate oversight and the approval of projects and proposals under the following business finance programs:

(A) Economic Development Revenue Bonds (Division 011); and

(B) Oregon Business Development Fund (Division 017);

(b) Consideration on appeal of administrative denials of business loans under the following programs:

(A) Entrepreneurial Development Loan Fund (Division 019); and

(B) Credit Enhancement Fund (Division 021);

(c) Immediate oversight and approval of private investment projects for the partial exemption from property taxes under the Strategic Investment Program (Division 023); and

(d) Immediate oversight and the approval of projects and proposals and of agreements with port districts under the Port Revolving Loan Fund (Division 030).

(2) The Finance Committee's members:

(a) Are appointed by the chair of the Commission to include representation from among this state's banking and financial community, as well as at least one member possessing general experience with a traded-sector industry or industry association; and

(b) Serve indefinite terms at the pleasure of the Commission's chair, such that a newly appointed Commission chair assumes the makeup and organization of the current Finance Committee until such time as the Commission chair initiates changes.

(3) The Commission's chair shall select a chairperson for the Finance Committee, such that:

(a) The chairperson shall call meetings and set agendas for the Finance Committee with the assistance of Department staff; and

(b) A member chosen by the chairperson (or otherwise, the longest-serving member present) shall preside over a Finance Committee meeting at which the chairperson is absent.

(4) The supervisor of the Department's business finance programs is authorized to administer the operations of the Finance Committee, officially carry out its decisions, prepare business for its consideration with the chairperson's consent and serve as an ex officio member on behalf of the Director.

(5) Nothing in this rule, or elsewhere in this chapter of administrative rules, shall be construed as interfering with the Commission's authority to dissolve the Finance Committee or to redirect its future procedures and purposes.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285B.062(1)(f), 285B.206(3) & 285B.377(3)
Stats. Implemented: ORS 285A.060, 285A.666 -285A.732, 285B.050 - 285B.098, 285B.200 - 285B.218, 285B.320 - 285B.377 & 285B.383 - 285B.392
Hist.: EDD 4-2003, f. & cert. ef. 3-26-03

123-005-0000
Applicability of Rules

This division of administrative rules applies to all public records for which the Department is custodian, for purposes of which, unless the context demands otherwise:

(1) **Department** means the State of Oregon Economic and Community Development Department as (re)organized under ORS 285A.070.

(2) **Director** means the director of the Department as appointed under ORS 285A.070.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1))
Stats Implemented: ORS 192.410 - 192.505 & ORS 285A & 285B
Hist.: EDD 12-1993, f. & cert. ef. 12-2-93; EDD 4-2003, f. & cert. ef. 3-26-03

123-005-0010
Access to Records

In carrying out responsibilities under ORS 192.410 to 192.505, the Department shall:

(1) Make restrictions and take precautions necessary to protect the integrity of the records and prevent interference with the regular discharge of the Department's duties;

(2) Maintain the confidential nature of records as provided under ORS 192.502(16), 285A.090(5), 285B.701(4) and other applicable state or federal laws, including but not limited to protecting the attorney-client privilege, as well as related provisions in OAR 123-017-0040 or other administrative rules.

(3) Allow that public records of the Department to be inspected or examined, subject to prior request, approval and arrangements, during the normal working days and hours of the offices of the Department at which the records are kept. The inspection or examination shall take place at the main office, a field office, or any other reasonable location designated by the Department.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 192.410 - 192.505 & ORS 285A & 285B
Hist.: EDD 12-1993, f. & cert. ef. 12-2-93; EDD 4-2003, f. & cert. ef. 3-26-03

123-005-0020
Requests to Inspect or Obtain Copies of Public Records

(1) A request to inspect or obtain copies of a public record or information from public records shall be made in writing (Attention: Public

Information Staff, Oregon Economic and Community Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem, OR 97301-1280), and shall include:

(a) The name, address and telephone number of the requester;

(b) Identification of the needed public record, or of the type and format of needed public record information, if known to the requester;

(c) Time period records were produced and officials involved in producing records or other relevant information, if known to the requester; and

(d) The number of copies for each item requested of the record, if copies are requested.

(2) The Director may waive the requirement under section (1) of this rule for a request to be made in writing, if it is determined that the waiver contributes to effective administration.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 192.410 - 192.505 & ORS 285A & 285B
Hist.: EDD 12-1993, f. & cert. ef. 12-2-93; EDD 4-2003, f. & cert. ef. 3-26-03

123-005-0030
Payment for Inspection and Copies of Public Records

(1) Except as waived in section (2) of this rule, a person who is receiving a copy of a public record or information from a public record shall pay the Department's actual cost for:

(a) Staff time necessary to identify, locate, summarize or compile the record as requested;

(b) Attorney fees, staff time and so forth associated with the screening of materials or blocking out of text that is exempt from disclosure;

(c) Supervision of on-site inspection of the public record by the requester;

(d) Customary fee per page for reproduction, handling and assembling of copies to be provided; and

(e) Postage or similar expenses and special supplies or services necessary to furnish the copy or information.

(2) The Director may reduce or waive the payment or charges in section (1) of this rule, if the Director determines that the reduction or waiver will aid in the effective administration of Department operations or is in the public interest because making the record available substantially benefits the general public.

(3) The Department shall as necessary establish a schedule of costs and charges for purposes of this division of administrative rules, which shall apply to all concurrent public records requests.

(4) The requester shall pay all fees for access to a public record in advance, based on estimates by the Department, unless the Director approves late payment.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: 192.410 - 192.505 & ORS 285A & 285B
Hist.: EDD 12-1993, f. & cert. ef. 12-2-93; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0005
Purpose & Scope

This division of administrative rules is primarily intended to establish policies and procedures for mandatory compatibility with Oregon's Planning Goals and associated land use plans and standards.

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0010
Policy

(1) It is the policy of the Economic and Community Development Commission and the Economic and Community Development Department that prior to approving or undertaking projects or actions under an Applicable Program, as defined in OAR 123-008-0015, the Commission or Department shall take steps or have program procedures for accomplishing compliance and compatibility with Planning Goals, principally through the applicable acknowledged comprehensive plans and the land use regulations of local governments, in accordance with OAR chapter 660, division 030.

(2) It is further the policy of the Commission and the Department that a critical way to achieve effective and efficient land use policies, as well as to provide other important benefits for the people of Oregon, is through the Quality Development Objectives and the interagency coordination envisioned under ORS 285B.045(5).

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0015
Definitions

For purposes of this division of administrative rules, unless the context demands otherwise:

(1) Applicable Programs mean those funds, incentives and other activities, powers and resources of the Department and the Commission that directly influence physical development on or to the land, or relate to the Quality Development Objectives, and will generally not include educational, marketing, technical assistance, funds for technical analysis or other similar programs.

(2) Commission means the State of Oregon Economic and Community Development Commission appointed under ORS 285A.040.

(3) Department means the State of Oregon Economic and Community Development Department as (re)organized under ORS 285A.070.

(4) Director means the director of the Department as appointed under ORS 285A.070.

(5) Planning Goals mean the mandatory statewide planning standards for land use as adopted by the Oregon Land Conservation and Development Commission under ORS chapters 195, 196 and 197, and are available and may be obtained from the Oregon Department of Land Conservation and Development, 635 Capitol Street, NE, Suite 150, Salem, Oregon 97301-2540.

(6) Quality Development Objectives mean the primary directives articulated in Executive Order No. EO 97-22, as found in Oregon Bulletin 37(2) (February 1998) and amendments to it.

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0020
Compliance with Planning Goals

(1) The Commission and Department shall achieve Planning Goal compliance whenever possible by taking actions that are compatible with the applicable acknowledged comprehensive plan of a county or city government and land use regulations of this state and local zone ordinances.

(2) However, if a situation arises that necessitates direct goal findings, because of potential or actual incompatibility under a local comprehensive plan or other reasons, as described in OAR 660-030-0065(3), the Commission or Department shall adhere to the following procedures, as formally as appropriate:

(a) Confirm that a situation exists requiring the Commission or Department to adopt direct goal findings of compliance with one or more of Planning Goals;

(b) Identify which Planning Goals or Goal requirements the Commission or Department must address;

(c) Consult directly with affected jurisdictions;

(d) Request interpretative guidance as needed from the Department of Land Conservation and Development or the Department of Justice;

(e) Rely on any relevant goal interpretations for state agencies adopted in accordance with OAR chapter 660, whenever applicable; and

(f) Adopt any necessary findings to ensure compliance with the Planning Goals.

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0025
Compatibility with Acknowledged Comprehensive Plans and Land Use Regulations

For purposes of this division of administrative rules, and to act compatibly with acknowledged comprehensive plans and land use regulations, except when the Commission or Department makes direct findings for compliance with Planning Goals consistent with OAR 123-008-0020(2), a project applicant for resources under an Applicable Program shall effectively certify to the project's compliance with the applicable city or county comprehensive plan, public facility plan and land use regulations, through mechanisms such as the following:

(1) Receipt of a copy of the local land use permit or equivalent documentation from the city or county planning agency or the local governing body that the project has received land use approval;

(2) Receipt of a letter from the local planning agency or governing body stating that the project is permitted under the jurisdiction's comprehensive plan and land use regulations but does not require specific land use approval;

(3) Copies of official land use maps or other local documents that demonstrate necessary compliance; or

(4) Other equivalent documentation from the affected city or county.

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented:ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0030
Dispute Resolution

(1) When a land use dispute related to a proposal or application for financial assistance under an Applicable Program arises, the proposal sponsor/applicant is expected to resolve the dispute directly with the government of the city or county where the proposed project is to be located. The Department will not provide funding for such a project until the dispute is resolved, as indicated by documentation pursuant to OAR 123-008-0025.

(2) In other cases, the Department may attempt to resolve disputes regarding land use issues by direct contact with the applicable local governing body. Whenever possible, Department efforts to resolve land use disputes shall be pursued prior to and through local government land use proceedings, and the Department shall use one or more of the following procedures to resolve land use disputes with local governments:

(a) Hold a meeting with the project applicant/sponsor and any directly involved or affected local government, state agency or federal agency;

(b) Assist in the innovative identification of alternative actions or modifications to the proposed project to resolve the dispute;

(c) Request assistance from the Department of Land Conservation and Development; or

(d) A compatibility determination as described in OAR 660-030-0070(6) to (12).

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0035
Compliance and Compatibility of New or Amended Programs

The Department of Land Conservation and Development is expressively listed in the Department's Notice Rule, OAR 123-001-0100, and the Department shall follow the same notice procedures whenever amending the "Land Use Coordination Program."

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-008-0040
Consistency with Local Economic Development Plans

Applicable adopted local economic development plans under ORS 285A.055(5) include, but are not limited to, relevant parts of the comprehensive (land use) plans of cities and counties, such as those related to Planning Goal 9.

Stat. Auth.: ORS 285B.075(5) & 285A.110(1)
Stats. Implemented: ORS 197.180 & ORS 285A & 285B
Hist.: EDD 9-1990, f. & cert. ef. 5-23-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-024-0011
Definitions

As used in this division of administrative rules, unless the context requires otherwise:

(1) "Department" means the State of Oregon Economic Development and Community Department as (re)organized under ORS 285A.070.

(2) "Director" means the Director of the State of Oregon Economic and Community Development Department as appointed under ORS 285A.070.

(3) "City" means the area within the corporate limits or urban growth boundary, or both, of any incorporated city in Oregon.

(4) "Distressed area" means a geographic area within the state of Oregon that meets one or more of the criteria set forth under OAR 123-024-0031. All geographic areas within a county designated by the department as a distressed area shall be considered to be distressed areas.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285A.095, ORS 285B.062 & ORS 285B.065
Hist.: EDD 12-1998, f. & cert. ef. 8-14-98; EDD 4-2003, f. & cert. ef. 3-26-03

123-024-0021
Distressed Area List

At least once per biennium, the department will review the economic conditions in Oregon and prepare a list of distressed areas. The distressed area list on file with the department's Director's Office is adopted as part of these rules by reference. The department will make the distressed area list available to all interested parties. A copy of the distressed area list, as well as further information related to the methodology described in OAR 123-024-0031 and so forth, may be obtained from the Director's Office, Oregon Economic and Community Development Department, State Lands Building Suite 200, 775 Summer Street NE, Salem, Oregon 97301-1280.

Stat. Auth.: ORS 285A.075(5) & ORS 285A.110(1)
Stats. Implemented: ORS 285A.095, ORS 285B.062 & ORS 285B
Hist.: EDD 12-1998, f. & cert. ef. 8-14-98; EDD 4-2003, f. & cert. ef. 3-26-03

123-075-0000
Purpose and Scope

This division of administrative rules is reserved for the delineation of general policies, procedures and criteria for financial assistance from various programs of the Oregon Economic and Community Development Department that is associated with construction, reconstruction, acquisitions, renovation, modification, furnishing and so forth of buildings and structures for public purposes or for the benefit of a community's general public. Any such rules would not override the requirements, criteria and parameters, as determined by state statutes or federal laws and regulations, for the particular programs.

Stat. Auth.: ORS 285A.075(5), 285A.110(1), 285A.305(5), 285B.419(1) & 285B.467(1)
Stats. Implemented: ORS 285A & 285B
Hist.: EDD 7-1990, f. 4-5-90, cert. ef. 4-6-90; EDD 4-2003, f. & cert. ef. 3-26-03

123-087-0000
Purpose

This division of administrative rules sets forth guidelines for soliciting, accepting and reporting contributions to the Department projects, programs and purposes that are received from private, non-governmental sources, as permissible under state law, including but not limited to ORS 285B.200(1). These guidelines are based on the premise that building a stronger economy and vital communities in Oregon may necessitate and may sometimes be best accomplished by close collaboration among the public, nonprofit and private sectors.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.200
Hist.: EDD 35-1988, f. 11-30-88, cert. ef. 12-1-88; EDD 4-2003, f. & cert. ef. 3-26-03

123-087-0010
Definitions

For the purpose of this division of administrative rules, unless the context demands otherwise:

(1) **Department** means the State of Oregon Economic and Community Development Department as (re)organized under ORS 285A.070.

(2) **Director** means the director of the Department as appointed under ORS 285A.070.

(3) **Private Sector Support** means financial contributions and/or in-kind goods and services, such as those listed in OAR 123-087-0020(1), that are received by the Department. Such donations may be received from individuals, partnerships, or corporations, or any other private entity, including but not limited to nonprofit organizations.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.200
Hist.: EDD 35-1988, f. 11-30-88, cert. ef. 12-1-88; EDD 4-2003, f. & cert. ef. 3-26-03

123-087-0020
Solicitation and Use of Private Support

(1) The Department may solicit, receive and use Private Sector Support in the following contexts:

(a) Special projects for public information, publicity or promotional activities related to economic and community enhancement in this state;

(b) Employees who are hired by the state government but whose compensation is entirely or partially attributable to donations received by the Department or by the state government on the Department's behalf from one or more private entities;

(c) Personnel employed by the contributing entity who are loaned to the Department for performing certain purposes, and who receive no compensation from the Department except for reimbursement of expenses;

(d) Activities related to the expansion, retention or recruitment of businesses, employment or commerce in and for this state;

(e) Efforts to organize, educate or increase institutional or human capacity for and among persons engaged in local economic and community development;

(f) Free or discounted provision of or access to public speakers, expertise, printing, advertisement, transportation, accommodations and so forth; or

(g) Similar reasons and circumstances.

(2) Solicitation of Private Sector Support by the Department shall be approved by the Director.

(3) Contributors to the Department shall not receive any special benefit, service, consideration, publicity or information as a result of their contribution to the Department, other than, for example, satisfaction with the mutual outcomes accomplished as a result of collaboration with the Department

(4) Any Private Sector Support received in the form of money shall be paid into and disbursed from an appropriate account or fund and its origins recorded.

(5) Private Sector Support shall be used only for the purposes for which it was contributed or returned to the contributor when appropriate.

(6) Private Sector Support involving loaned personnel, privately supported compensation of state employees or similar arrangements shall be:

(a) Used only for temporary, limited duration or specially dedicated roles or for unusual circumstances, and not to fill a regular, permanent position of the state government or to displace or replace any existing employee;

(b) Approved directly by the Director;

(c) Reported to appropriate state agencies, in addition to OAR 123-087-0040, within 30 days of the commencement of such a person's work or service for the state, if the period of that work or service is expected to be at least that long;

(d) For no more than an overall period of two years and not repeated;

(e) Preceded by any affected person's orientation with the Department, including but not limited to facilitation and instruction by the Department for the person to read and understand the laws and guidelines described in subsection (f) of this section; and

(f) Done in accordance with all applicable laws and guidelines of the State of Oregon and of the Department relating to personnel, compensation, volunteers, state liability, ethics, and the identification and prevention of conflicts of interest, including but not limited to ORS 171.725 to 171.785, ORS chapters 179 and 244, and OAR 123-087-0030.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.200
Hist.: EDD 35-1988, f. 11-30-88, cert. ef. 12-1-88; EDD 4-2003, f. & cert. ef. 3-26-03

123-087-0030
Avoiding Conflicts of Interest

(1) The Department shall solicit and receive Private Sector Support only for the purpose of assisting the Department to undertake or implement the programs, functions or laws that it is charged with administering.

(2) Private Sector Support may not be received or used in any way that:

(a) Provides for the personal benefit of any state employee;

(b) Directly benefits any entity responsible for the support; or

(c) Pertains significantly to Department actions, decisions or resources with the potential to have a pecuniary advantage or detriment to such an entity.

(3) If, in the judgment of the Director, an entity is offering or providing support in order to potentially receive special consideration, services or information from the state, or the support is otherwise improper, the Director shall refuse or return the support offered. The Director may consult with the Governor's Office, Department of Administrative Services, Secretary of State, Attorney General, Government Standards and Practices Commission or other state agencies in order to determine whether receipt of such support is appropriate.

(4) The Department shall, as needed, develop special operational guidelines for purposes of this division of administrative rules (including but not limited to the treatment of confidential or privileged information), signed statements acknowledging such guidelines, and so forth.

(5) The elements and intent of this rule may be applied in situations that might arise with respect to contributions, in-kind goods or services or other forms of support offered to or received by the Department from local governments or municipal corporations that are eligible to receive funding from the Department.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.200
Hist.: EDD 35-1988, f. 11-30-88, cert. ef. 12-1-88; EDD 4-2003, f. & cert. ef. 3-26-03

123-087-0040
Reporting Private Sector Support

The Department shall report any financial contribution or instance of an in-kind good or (non-personnel) service that is received by the Department from a private business or individual or from a nonprofit organization comprising or representing private businesses or individuals, and that has a market value of $1,000 or more, such that the report shall:

(1) Be issued biannually to the Governor's Office, the Department of Administrative Services, the Government Standards and Practices Commission, the Secretary of State or any other state agencies, as appropriate, including but not limited to any agency that regulates a business firm connected with the contribution or Private Sector Support; and

(2) Include the amount of the contributions, the entities providing the contributions, and the projects or purposes for which the contributions were received.

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)
Stats. Implemented: ORS 285A.200
Hist.: EDD 35-1988, f. 11-30-88, cert. ef. 12-1-88; EDD 4-2003, f. & cert. ef. 3-26-03

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Oregon Housing and Community Services
Chapter 813

Adm. Order No.: OHCS 1-2003
Filed with Sec. of State: 4-4-2003
Certified to be Effective: 4-4-03
Notice Publication Date: 3-1-03
Rules Adopted: 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
Rules Repealed: 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)
Subject: The rules implement the creation of Individual Development Accounts (IDAs) between low-income account holders and authorized fiduciary organizations.
Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-300-0005
General Purpose

OAR chapter 813, division 300, is promulgated to accomplish the general purposes of ORS 315.271 and 458.670 through 458.700, as they pertain to the Housing and Community Services Department and its supervision of individual development accounts ("IDAs"). These statutes, among other things, authorize the creation of IDAs between lower income account holders and authorized fiduciary organizations. Through these IDAs, account holders may deposit funds into cooperating financial institutions so as to accumulate assets that may be used by them in a manner consistent with personal development plans developed in conjunction with their participating fiduciary organization. The fiduciary organizations, in turn, deposit matching funds through the corresponding IDAs into financial institutions so as to augment account holder assets. The fiduciary organizations also provide their expertise in coordination of the personal development plans. Fiduciary organizations largely obtain their matching funds from contributors. Contributions to fiduciary organizations for use as IDA matching deposits may qualify the contributor for a tax credit under ORS 315.271.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0010
Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Account holder" means a member of a lower income household that has a net worth of less than $20,000 who is the named depositor of an individual development account.

(2) "Allotted land" means "lands distributed to individual Indians by the federal government; generally, allotments were 40-, 80-, or 160-acre parcels of reservation land in commonly held ownership that became individually owned."

(3) "Contributor" means a person or entity contributing funds to the Department or to a fiduciary organization for the purpose of matching IDA deposits by an account holder or for funding program plan operations.

(4) "Department" means the Housing and Community Services Department established in ORS 456.555 and, where applicable, its designee.

(5) "Designated beneficiary" means a minor-age member of the account holder's household who is the beneficiary of an IDA used to pay the member's extracurricular non-tuition expenses designed to prepare the member for post-secondary education or job training.

(6) "Fiduciary organization" means a non-profit, fund raising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999, or a federally recognized Indian tribe or band, as selected by the department under these rules.

(7) "Fiduciary organization program plan" or "program plan" means a mission statement by a fiduciary organization and the corresponding detailed plan by it for the solicitation of contributions (tax credit or otherwise) and prospective account holders, the management of IDA's and their associated personal development plans, and the operation of the fiduciary organization itself - all as approved by the Department and with such modifications as the Department may require. A prospective program plan must accompany any application to the Department for its approval of a fiduciary organization.

(8) "Financial institution" means an organization regulated under ORS chapters 706 to 716, 722 or 723, or in the case of an account established for the purpose described in ORS 458.685(1)(c) related to college savings plans, a financial institution as defined in ORS 348.841.

(9) "Individual development account (IDA)" or "account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into a financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(10) "Lower income household" means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Department, giving consideration to area household data published by the United States Department of Housing and Urban Development.

(11) "Net worth" means the value of all assets owned in whole or part by household members other than equity in a residence, minus the total debts and obligations of household members, all as measured at the time the prospective account holder applies to establish the IDA.

(12) "Oregon individual development account tax credit" or "tax credit" means a credit against taxes otherwise due under ORS chapter 316, 317, or 318, as allowed in return for contributions to a fiduciary organization for eventual distribution to individual development accounts established under ORS 458.685.

(13) "Personal development plan" means a written plan developed jointly by the fiduciary organization and the prospective account holder for an IDA that is designed to provide the account holder with appropriate financial and asset training, counseling, career or business planning and other services that will increase the independence of the account holder and his/her household through achievement of the IDA's approved purposes. The personal development plan must be in conformance with ORS 458.680, these rules and other requirements of the Department.

(14) "Related funds" means contributions to fiduciary organizations for IDA program purposes that do not qualify for tax credits and supplemental funding from the Department for IDA program purposes.

(15) "Reverted funds" means matching IDA deposits that devolve to a fiduciary organization because of the termination or revocation of a person as an account holder or unused tax credit contributions or supplemental funds upon termination or revocation of a fiduciary organization or at the expiration of its program plan.

(16) "Supplemental funding" means funds provided by the Department to fiduciary organizations for program plan purposes.

(17) "Tax credit contributor" means a contributor who receives a corresponding tax credit as allowed in ORS 315.271.

(18) "Tax credit contributions" means funds obtained from tax credit contributors who, in return, earn a tax credit

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0020
Fiduciary Organization Application Process

(1) The Department from time to time may solicit applications from entities desiring to be authorized as fiduciary organizations. The Department, in its sole discretion, may choose to consider for approval only proposed fiduciary organizations identified in applications received in response to such solicitations. The Department, in its sole discretion, also may approve fiduciary organizations on its own initiative or consider for approval proposed fiduciary organizations identified in applications received outside of a Department solicitation.

(2) All applications for approval of a proposed fiduciary organization shall be in writing to the Department in such form and with such content as the Department may require. In addition to any other information required by the Department, an application must include the following:

(a) The name, address, telephone number, Fax number, tax identification number of the proposed fiduciary organization, and key program contact person;

(b) A description of the proposed fiduciary organization entity, its officers, and ownership structure;

(c) Copies of the organic documents of the proposed fiduciary organization and proof, satisfactory to the Department, that such entity is in good standing and is authorized to transact business in the State of Oregon;

(d) A statement of the proposed fiduciary organization's capacity to act as a fiduciary organization, including relevant experience;

(e) A description of the geographic area to be served;

(f) A description of the key personnel who will specifically administer the individual development account program in the proposed fiduciary organization;

(g) The proposed program plan of the proposed fiduciary organization;

(h) A description of proposed third-party contractors and others, if any, by which the proposed fiduciary organization intends to accomplish program plan responsibilities;

(i) Signed agreements with one or more financial institutions to hold and operate individual development accounts;

(j) The entity's proposed program plan budget through the entity's first full fiscal year of its program plan identifying, at a minimum, projected revenues and expenses.

(k) If applicable, an application for supplemental funding from the Department for the period of the proposed program plan budget.

(3) The Department, in its sole discretion, may determine the number of fiduciary organizations to be authorized at any particular time. Consistent with such discretion, and its discretion to solicit, to consider and to initiate applications, the Department will approve as fiduciary organizations those entities that, in its judgment, best suit the purposes of ORS 458.670 through 458.700 and these rules.

(4) The Department, in its sole discretion, may establish time limits upon the duration of any approval of a fiduciary organization.

(5) Application information may be obtained by contacting the Department at: **Oregon Housing and Community Services, Individual Development Account Program, PO Box 14508, Salem, OR 97309-0409**. Application information also may be available on the Department website at: **www.hcs.state.or.us**.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0030
Fiduciary Organization Application Review

(1) In reviewing applications for authorization as a fiduciary organization, the Department shall consider the following factors:

(a) The ability of the prospective fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(b) The capacity of the prospective fiduciary organization to provide or raise matching funds for the deposits of accountholders;

(c) The capacity of the prospective fiduciary organization to provide financial counseling and other related services to account holders; and

(d) The links that the prospective fiduciary organization has to other activities and programs designed to increase the independence of this state's lower income households through education and training, home ownership and small business development.

(2) In reviewing applications for authorization as a fiduciary organization, the Department may consider additional factors including, but not limited to, the following:

(a) The eligibility of the entity;

(b) The sufficiency and accuracy of the application;

(c) The geographic area of proposed program plan operation and the need to be addressed;

(d) The performance of the entity in providing additional information, as requested;

(e) The quality of the proposed program plan, including the range and quality of potential personal development plans;

(f) The willingness and ability of the prospective fiduciary organization to effect modifications to its proposed program plan;

(g) The capacity of the prospective fiduciary organization to work together with third-party contractors and other program plan partners to accomplish its proposed program plan as modified, if at all, by the Department;

(h) The Department's past experience with the entity, its proposed third-party contractors, other proposed program plan partners, and identified personnel;

(i) Public opinion or other input; and

(j) Department administrative interests.

(3) The Department may condition authorization of an entity as a fiduciary organization upon Department required changes in the terms of the entity's application including, but not limited to its proposed program plan. The Department also may condition its authorization upon such other requirements as the Department determines to be appropriate.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0040
Fiduciary Organization General Responsibilities

(1) All entities must satisfy applicable legal standards, including these rules as modified from time to time as well as orders and other directives of the Department, and be authorized in writing by the Department, prior to and during all times that such entities function as fiduciary organizations.

(2) Authorized fiduciary organizations must operate in a manner consistent with the program plan and organizational documents submitted by them to the Department as approved by the Department. Fiduciary organizations may amend program plans and organizational documents from time to time with the prior written approval of the Department. The Department, from time to time, also may require changes to a program plan.

(3) Subject to Department approval, fiduciary organizations may engage third-party contractors or otherwise partner with others to perform program plan duties. Any contract or other agreement between a fiduciary organization and a third-party contractor or other partner must provide that the terms thereof and performance by the parties is subject to applicable law, these rules as amended from time to time, and the orders and directives of the Department.

(4) Fiduciary organizations assume full responsibility to the Department for operation of their program plan and the use of tax credit contributions and related funds. Such assumption does not limit the Department's rights or powers with respect to, or the responsibility of, third-party contractors, fiduciary organization partners, account holders, designated beneficiaries, or others.

(5) The program plan duties of a fiduciary organization include, but are not necessarily limited to:

(a) Complying with applicable law, including these rules as amended from time to time, and orders and other directives of the Department;

(b) Preparing, updating, and complying with an applicable program plan as authorized by the Department;

(c) Correlating with account holders and designated beneficiaries in preparing and effecting the preparation of appropriate personal development plans consistent with the program plan;

(d) Managing personal development plans including where relevant, but not limited to, counseling account holders and designated beneficiaries, providing financial and asset literacy training, and conducting required verification and compliance activities;

(e) Arranging for, coordinating with, remunerating, auditing, and otherwise ensuring compliance by appropriate third-party contractors and others;

(f) Marketing to, evaluating applications by, and signing individual development account agreements with appropriate potential account holders;

(g) Establishing agreements with appropriate financial institutions to operate IDA accounts;

(h) Marketing tax credits, soliciting contributions, and providing other funding as necessary to cover those and other program plan costs including, without limitation, the management of personal development programs and the matching of IDA deposits by account holders;

(i) Maintaining records with respect to all program plan activities in a manner satisfactory to the Department, and providing the Department access to such records as required by the Department;

(j) Providing annual reports of IDA activity acceptable to the Department within 90 days after the end of the fiscal year of the fiduciary organization;

(k) Providing such other informational reporting to the Department as the Department may require in the form and at the times required by the Department; and

(l) Fully and timely complying with all verification and compliance requirements of the Department.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0050
Fiduciary Organization Selection of Account Holders and Designated Beneficiaries

(1) Each fiduciary organization must establish an application process for potential account holders and designated beneficiaries satisfactory to the Department. At a minimum, the application process must accomplish the following objectives:

(a) Verify the eligibility of each prospective account holder and of any prospective designated beneficiary;

(b) Assist each selected account holder and designated beneficiary, if any, to prepare an appropriate personal development plan;

(c) Execute an IDA with each selected account holder;

(d) Engage a financial organization for maintenance of appropriate IDA accounts; and,

(e) Assure the collection of other information necessary for appropriate record keeping and reporting requirements.

(2) Subject to the approval of the Department and the limitations of applicable law, each fiduciary organization may impose such other criteria and require such other information in the selection of account holders and designated beneficiaries as that fiduciary organization deems to be appropriate.

(3) Additional selection criteria may include, but are not limited to the following:

(a) The capacity and funding of the fiduciary organization to accommodate prospective account holders and designated beneficiaries;

(b) The availability of necessary or appropriate third-party contractors and other partners;

(c) The extent to which the income and net worth of the prospective account holders are lower than the income and net worth limitations established in ORS 458.670(5) and 458.680(2);

(d) The accuracy, substance, and completeness of submitted applications;

(e) Any identified ability or inability of the prospective account holder or the prospective designated beneficiary to fulfill the terms of an appropriate IDA and the corresponding personal development plan;

(f) The cost and feasibility of an appropriate personal development plan;

(g) Past experience with prospective account holders and designated beneficiaries; and

(h) Such other considerations as the Department may identify.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0060
Fiduciary Organization Suspension or Termination of Account Holders

(1) Subject to these rules, fiduciary organizations, for cause, may suspend or terminate a person's status as an account holder or designated beneficiary and may suspend or terminate any related IDA and personal development plan.

(2) Factors that fiduciary organizations may consider as sufficient cause for any such suspension or termination include the following:

(a) If an account holder or designated beneficiary moves from the area where the personal development program is conducted or is otherwise unable to continue in the personal development program.

(b) The withdrawal of funds by an account holder from an account for other than a purpose approved by the fiduciary organization;

(c) The failure by an account holder to make a timely reimbursement to an account after an emergency withdrawal pursuant to ORS 458.685(2);

(d) A material misrepresentation or omission by the account holder or designated beneficiary to the fiduciary organization in the application or otherwise;

(e) A material failure by the account holder or designated beneficiary to comply with applicable law, these rules, orders or directives of the Department, the terms of the IDA or the terms of the personal development plan;

(f) Ineligibility of the account holder or designated beneficiary; and

(g) Failure by the account holder or designated beneficiary to cooperate reasonably with the fiduciary organization or its third-party contractors or other partners in the performance or evaluation of the personal development plan or in the performance, evaluation, or audit of the IDA and the funds related thereto.

(3) In conjunction with the termination of any person's status as an account holder based on factors identified above in Section 813-300-0060(2)(a), (b), or (c), all matching IDA deposits and all interest earned on such matching IDA deposits shall revert to the fiduciary organization.

(4) In conjunction with the termination of any person's status as an account holder or designated beneficiary based on other factors identified or allowed in Section 813-300-0060(2), fiduciary organizations may rescind any right or interest of account holders in, and assume sole ownership of, any or all matching IDA deposits and the interest earned on such matching IDA deposits.

(5) Fiduciary organizations must provide thirty (30) days written notice delivered by mail to an account holder at their last known address, any designated beneficiary, at their last known address, receiving assistance through the account holder's personal development plan, and to the Department before suspending or terminating the person's status as an account holder. The notice must include a provision satisfactory to the Department advising the account holder of his/her right to obtain administrative review by the Department of any determination by the fiduciary organization to suspend or terminate his/her status as an account holder. The administrative review provision also must advise the account holder and any designated beneficiary receiving assistance through the account holder's personal development plan of their right to obtain administrative review by the Department of any determination by the fiduciary organization to suspend or terminate the related personal development plan or to rescind any right or interest of the account holder in, and to assume sole ownership of, any or all matching IDA deposits and the interest earned on such matching IDA deposits.

(6) A fiduciary organization may provide a shorter written notice of suspension or termination if the fiduciary organization identifies in the notice the exigent circumstances reasonably requiring such shorter notice period.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0070
Fiduciary Organization Funding

(1) Fiduciary organizations must solicit contributions and otherwise generate funding to finance their operations and to effectuate their program plan.

(2) Fiduciary organizations may apply to the Department for supplemental funding. Applications for supplemental funding must be in form, timing, and content satisfactory to the Department.

(3) The Department may provide supplemental funding and the conditions thereof in response to such applications, or on its own initiative, as the Department deems appropriate. In making supplemental funding determinations the Department may consider factors including, but not limited to the following:

(a) The financial need of the fiduciary organization;

(b) The progress of the fiduciary organization in implementing its program plan;

(c) Factors relevant to the Department's review of the fiduciary organization's application for authorization;

(d) The fiduciary organization's own fundraising efforts;

(e) The availability of Department funds for this purpose; and

(f) The need for services in the area addressed by the fiduciary organization.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0080
Fiduciary Organization Use of Tax Credit Contributions and Related Funds

(1) Oregon individual development account tax credit contributions to fiduciary organizations, other contributions to fiduciary organizations specifically for their program plan, and any supplemental funds from the Department to fiduciary organizations shall be used by fiduciary organizations solely for reasonable and documented program plan purposes consistent with these rules.

(2) In addition to any other limitations on supplemental funds imposed by the Department when providing such supplemental funds to fiduciary organizations, the following limitations apply to the use of tax credit contributions and related funds:

(a) Fiduciary organizations only may expend tax credit contributions and related funds in a manner consistent with their budget as approved by the Department;

(b) Fiduciary organizations may expend a maximum of 2% of their received tax credit contributions for administering the solicitation of tax credit contributions;

(c) Fiduciary organizations may not expend supplemental funds for administering the solicitation of tax credit contributions;

(d) Fiduciary organizations may expend a maximum of 5% of tax credit contributions and, without additional specific written authority from the Department, 5% of supplemental funds for administering and evaluating their program plan;

(e) Fiduciary organizations may expend a maximum of 20% of tax credit contributions and, without additional specific written authority from the Department, 20% of supplemental funds for the costs of providing assistance to account holders and their beneficiaries to develop and fulfill personal development plans;

(f) Fiduciary organizations may expend tax credit contributions and related funds for appropriate matching of account holder IDA deposits as follows:

(A) Allowable matching IDA deposits by fiduciary organizations must equal at least $1, but not exceed $5, for each $1 of IDA deposits by the account holder;

(B) Matching IDA deposits must be placed in:

(i) A savings account with an approved financial institution jointly held by the account holder and the fiduciary organization and requiring the signatures of both for withdrawals;

(ii) A savings account with an approved financial institution that is controlled by the fiduciary organization and is separate from the savings account of the account holder; or

(iii) In the case of an account established for the purpose described in ORS 458.685(1)(c), a qualified tuition savings program account under ORS 348.841 to 348.873, in which the fiduciary organization is the account owner as defined in ORS 348.841.

(C) The aggregate maximum amount of matching IDA funds that a fiduciary organization may deposit with respect to a specific account holder shall not exceed more than $2,000 in a 12-month period; and

(D) The aggregate maximum amount of matching IDA funds that a fiduciary organization may deposit with respect to a specific account holder during the existence of that account holder's IDA shall not exceed more than $20,000.

(g) Supplemental funds not expended, obligated or deposited consistent with these rules within one year from the date that such supplemental funds are received from the Department shall be returned immediately to the Department; and,

(3) Reverted matching IDA deposits must be used by fiduciary organizations to make matching IDA deposits for eligible account holders consistent with these rules as soon as is reasonably practicable.

(4) A fiduciary organization that is the account owner of a qualified tuition savings program account:

(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the qualified tuition savings program account of the account holder that was established for the designated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the designated beneficiary; and

(b) May make nonqualified withdrawals only if the qualified tuition savings program account of the account holder that was established for the designated beneficiary has a balance of less than $100 or if the account holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by a fiduciary organization from such a nonqualified withdrawal must be used for program plan purposes.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0090

Fiduciary Financial Controls; Audit and Repayment Responsibilities

(1) Fiduciary organizations, third-party contractors and other program plan partners shall maintain appropriate financial controls, acceptable to the Department and using generally accepted accounting principles, in the receipt and expenditure of tax credit contributions and related funds.

(2) Fiduciary organizations by contract shall require third-party contractors and other program plan partners to maintain appropriate financial controls acceptable to the fiduciary organization and to the Department.

(3) Fiduciary organizations, third-party contractors and other program plan partners only shall charge reasonable and necessary costs to the program plan consistent with the approved program plan budget.

(4) All costs charged to the program plan by a fiduciary organization, third-party contractors, and other program plan partners shall be supported properly by vouchers and other records satisfactory to the Department that indicate in proper detail the nature and propriety of the costs.

(5) Fiduciary organizations, third-party contractors and other program plan partners shall cooperate fully with all audits of them by the fiduciary organization, the Department, the Office of the Secretary of State or the Department of Justice with respect to relevant program plans.

(6) Fiduciary organizations are responsible to the Department for the immediate repayment of all unused or improperly expended tax credit contributions and supplemental funds.

(7) Fiduciary organizations and any relevant third-party contractor or other program plan partner are jointly and severally responsible to the Department for the immediate repayment of all tax credit contributions and supplemental funds improperly retained or improperly expended by any such third-party contractor or other program plan partner of a fiduciary organization

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0100

Fiduciary Organization Records and Reporting Requirements

(1) Fiduciary organizations shall prepare and maintain appropriate, accurate and complete program plan record-keeping systems and records satisfactory to the Department. Such record-keeping systems also must cover and include records generated by third-party contractors and other program plan partners.

(2) A fiduciary organization must maintain separate files for each account holder that, at a minimum, include the following records:

(a) Documentation of income eligibility;

(b) The personal development plan;

(c) The IDA;

(d) Records of all IDA deposits, withdrawals, and other financial information;

(e) Evidence of training received;

(f) Documentation of any determination with respect to the status of the account holder or any beneficiaries;

(g) Documentation of any exit interviews; and

(h) Any other information required by the Department.

(3) Fiduciary organizations shall maintain such program plan record-keeping systems and records at their principal place of business in Oregon.

(4) Fiduciary organizations shall maintain program plan records for a period of six (6) years from the date of completion or termination of each account holder's or designated beneficiary's personal development plan and the expiration of the IDA. The Department may require fiduciary organizations to maintain records for longer periods including, without limit, for unresolved audit matters.

(5) The Department, the Office of the Secretary of State, and the Department of Justice shall be permitted to inspect, copy, and audit any and all program plan records and take other action that to them seems appropriate in the conduct of such inspections or audits.

(6) Fiduciary organizations shall file quarterly reports with the Department in form, substance and timing acceptable to the Department.

(7) Quarterly reporting periods end on March 31, June 30, September 30, and December 31 of each calendar year. Unless indicated otherwise by the Department, fiduciary organizations shall deliver quarterly reports to the Department no later than 5:00 p.m. on the last working day within 30 days following the last day of that quarterly reporting period.

(8) In addition to any other information required by the Department, quarterly reports shall include the following:

(a) Summary demographic data and cumulative totals regarding current account holders;

(b) IDA deposit and withdrawal data (approved and non-approved) by month, including separately identified matching IDA deposits and withdrawals;

(c) Documentation of administrative, third-party contractor and other program plan partner costs and disbursements; and

(d) Documentation of tax credit contributions and related funds receipts.

(9) Fiduciary organizations also shall file annual reports with the Department in form, substance and timing acceptable to the Department.

(10) The annual report shall cover the fiscal year of the fiduciary organization and shall be filed by the fiduciary organization with the Department not later than ninety (90) days following the end of each fiscal year of the fiduciary organization. Unless otherwise expressly approved in writing by the Department, each fiduciary organization's fiscal year shall run concurrently with the calendar year, i.e., January 1 through December 31.

(11) At a minimum, fiduciary organization annual reports shall include:

(a) The number of IDAs administered by the fiduciary organization;

(b) The amount of deposits and matching deposits for each account;

(c) The purpose of each account;

(d) The number of withdrawals made from each account; and

(e) Any other information the Department may require for the purpose of making a return on investment analysis or for any other purpose of the Department.

(12) Fiduciary annual reports must be in a format approved by the Department that, in addition to providing aggregate and individual IDA data, also collectively identifies and tracks IDAs by the year of their creation and provides collective data for each such yearly class until the last IDA account holder or designated beneficiary of a particular class completes his/her personal development plan and the related IDA expires.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0110

Account Holder and Beneficiary Responsibilities

(1) To be an account holder, eligible persons must apply to a fiduciary organization authorized by the Department and in a manner established by the fiduciary organization as approved by the Department.

(2) Persons selected to be account holders must execute an IDA with their fiduciary organization and, as necessary, with a financial institution, in form and content satisfactory to the Department before they may act as account holders.

(3) Account holders and beneficiaries at all times must comply with applicable law, these rules, applicable orders and directives of the Department and their fiduciary organization, the provisions of their IDA, and their personal development plan.

(4) Account holders at all times must be residents of the State of Oregon. When the account is opened, the applicant to become an account holder must be a member of a lower income household.

(5) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries qualify by residence, income, and age (if applicable) to be account holders or beneficiaries.

(6) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries are complying with the terms of their IDA and its associated personal development plan.

(7) Account holders and their beneficiaries must cooperate fully with the Department and their own fiduciary organization in any review or audit of the IDA, of their personal development plan, or of their eligibility.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0120

Account Holder Use of Funds

(1) Account holders only may withdraw and use IDA deposits in a manner consistent with their IDA, the relevant personal development plan, these rules and any relevant directives of the Department.

(2) Account holders only may withdraw and use IDA deposits for the following purposes as approved by their fiduciary organization:

(a) For the acquisition of post-secondary education or job training;

(b) If the account holder has established the account for the benefit of a designated beneficiary, for the payment of extracurricular nontuition expenses designed to prepare the designated beneficiary for post-secondary education or job training;

(c) To capitalize a small business;

(d) For the purchase of a primary residence;

(e) With respect to account holder deposits only, for an emergency as set forth in ORS 458.685(2)(a); and

(f) If the account holder has established a qualified tuition savings program account under ORS 348.841 to 348.873 on behalf of a designated beneficiary, the establishment of an additional qualified tuition savings program account on behalf of the same designated beneficiary.

(3) IDA deposits, including the interest earned thereon, withdrawn by the account holder for an emergency as set forth in ORS 458.685 and OAR 813-300-0120(2)(e) above, must be repaid by the account holder within 12 months.

(4) In addition to payment on the purchase price of a residence pursuant to OAR 813-300-0120(2)(d) above, appropriate account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs with respect to such residence.

(5) Account holders may not use IDA deposits to purchase a primary residence if they have owned or held any interest in a residence during the three years prior to making the purchase for which they intend to use IDA deposits. This three year restriction shall not apply in the following:

(a) For displaced homemakers or other individuals who have lost homeownership as a result of divorce.

(b) For a tribal member who still has rights to an allotment under the Dawes Act Public Law 280 and amended in 1891, the 1906 Burke Act and the 1910 Omnibus Act Statutes at Large 24, 388-91, NADP Document A1887, but the tribal member faces multiple ownership of his or her land status and cannot successfully achieve sole ownership in order to receive any equity or collateral from that allotment. If the tribal member solely owns a residence on land known as an allotment and has successfully received sole ownership including the receipt of title status report (TSR) through the Bureau of Indian Affairs, they may not use IDA deposits to purchase a primary residence. If the person can receive more than $2500 in equity or collateral of their allotment, the value over $2500 shall be included in their asset limit.

(6) In capitalizing a small business pursuant to OAR 813-300-0120(2)(c) above, IDA deposits may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan approved by the fiduciary organization. To qualify for fiduciary organization approval, the business plan must have been developed by a financial institution, a nonprofit microenterprise program or other qualified agent demonstrating business expertise. The business plan also must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(7) Account holders must repay moneys improperly taken from IDA deposits including the interest earned thereon, when required by their fiduciary organization or by the Department.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0130
Voluntary Termination of a Fiduciary Organization

(1) Any fiduciary organization and the Department may terminate that fiduciary organization's program plan and its authorization as a fiduciary organization upon thirty (30) days notice by written mutual consent.

(2) In determining whether or not to provide its termination consent, the Department may consider factors including, but not limited to the following:

(a) The financial and organizational capacity of the fiduciary organization to continue;

(b) The impact of the termination upon account holders and designated beneficiaries;

(c) The past performance of the fiduciary organization;

(d) The current eligibility of the fiduciary organization;

(e) The ability and willingness of the fiduciary organization to transfer account holder IDAs and related personal development plans, and the management and funding of same, to other fiduciary organizations;

(f) The ability and willingness of the fiduciary organization to transfer tax credit contributions, related funds, and other moneys to other fiduciary organizations in support of the transfer of account holder IDAs and related personal development plans;

(g) The willingness of account holders and designated beneficiaries with respect to termination of the fiduciary organization; and

(h) Whether or not the fiduciary organization has delivered to the Department any unused tax credit contributions, related funds and any other moneys.

(3) The Department may condition its consent upon such terms and conditions as seems reasonable, including without limit, that the fiduciary organization continue to perform with respect to any or all existing IDAs.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0140
Financial Institutions

Financial Institutions shall secure and maintain IDA deposits in accordance with law and the terms of the applicable IDA.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0150
Tax Credit Contributor

(1) Contributors to an approved fiduciary organization may qualify for an Oregon IDA tax credit.

(2) The maximum contribution from a single taxpayer within a particular year that may qualify for an Oregon IDA tax credit is $100,000.

(3) The maximum amount of tax credit allowable to a single taxpayer within a particular year is $75,000.

(4) Contributions from contributors not utilizing an Oregon IDA tax credit may be eligible for a charitable deduction against taxable income.

(5) The Department makes no representation on whether or not specific contributions qualify for an Oregon IDA tax credit. In all cases, contributors are encouraged to seek professional advice to determine the actual tax ramifications of their contribution.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.
Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0160
Department Regulation and Enforcement

(1) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(2) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(3) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(4) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(5) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(6) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(7) The Department may require the termination of any individual development account. The Department may require the transfer of any individual development account, including related deposits, from one fiduciary

organization to another or to such other fiduciary as the Department determines to be appropriate.

(8) The Department may audit any fiduciary organization, any third-party contractor, and any other program plan partner. The Department also may inspect and copy IDA program documents in the possession or under the control of such entities including, without limitation, any individual development account, any contract or other IDA program agreement, and any personal development plan.

(9) The Department may suspend, terminate or require modifications in personal development plans.

(10) The Department, on its own initiative or at the request of an aggrieved party, may review fiduciary organization decisions with respect to individual development accounts, including but not limited to decisions to withdraw matching funds from individual development accounts or to suspend or terminate matching deposits to deposits made by the account holder.

(11) The Department may suspend, overturn or modify fiduciary organization decisions with respect to individual development accounts including, but not limited to funding decisions.

(10) The Department, on its own initiative or at the request of any aggrieved party, may review other fiduciary organization decisions with respect to program plan matters including, without limitation, decisions made through third-party contractors and other program plan partners.

(11) The Department may suspend, overturn or modify fiduciary organization program plan decisions.

(12) The Department may limit the number of authorized fiduciary organizations eligible to collect tax credit contributions and may limit the amount of tax credit contributions that specific fiduciary organizations may receive in any particular time-period.

(13) The Department may take such other action to regulate and enforce compliance with the IDA program, including these rules, as the Department determines to be necessary or appropriate.

(14) Factors that the Department may consider in taking any regulatory or enforcement action under these rules may include, but are not limited to the following:

(a) Those factors identified in these rules for the authorization of fiduciary organizations;

(b) A person or entity's compliance with these rules and other relevant law;

(c) The efficient and effective operation of the IDA program;

(d) The integrity of account management; and

(e) The best interests of account holders and designated beneficiaries.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.

Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0170

Administrative Review

(1) Account holders and designated beneficiaries aggrieved by any decision of a fiduciary organization to suspend or terminate the account holder's IDA, any decision by the fiduciary organization to suspend or terminate a personal development plan, any decision by the fiduciary organization to withdraw matching IDA deposits, or any decision by the fiduciary organization requiring the account holder to repay withdrawn IDA deposits, may request administrative review by the Department.

(2) The request for administrative review must be in writing, stating the nature of the decision, the reasons why the aggrieved party disagrees with the decision, and the nature of the requested relief.

(3) The request for administrative review must be delivered to the Department within thirty (30) days from the date that the aggrieved party receives written notice of the decision by the fiduciary organization. The aggrieved party simultaneously shall provide a copy of the request for administrative review to the fiduciary organization.

(4) Upon receipt of an appropriate request for administrative review, the Department will make such investigation of the matter as it determines to be appropriate. In making any such investigation, the Department may require and receive from the parties or other participants in the program plan any additional information or require such other proceedings as it deems appropriate.

(5) The Department will provide its written determination on the request for administrative review following the completion of its investigation. The Department also may issue such preliminary orders as it deems appropriate pending the issuance of its written determination.

(6) In its written determination, or in any preliminary order, the Department may reverse, revise, stay, or approve the decision at issue made by the fiduciary organization.

(7) The Department also may enforce its written determinations and preliminary orders by such action as it deems appropriate.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.

Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0180

Waiver

The Department may waive or modify any requirements of OAR 813, division 300, unless such waiver or modification would violate applicable federal or state law.

Stat. Auth.: ORS 456.555, ORS 456.625, ORS 458.700.

Stats. Implemented: ORS 315.271, ORS 458.670 - ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

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Oregon Liquor Control Commission
Chapter 845

Adm. Order No.: OLCC 3-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 6-1-01
Rules Adopted: 845-005-0327
Subject: This rule incorporates several of the most common applicant-related refusal bases into one matrix. Points are assigned based on severity of the incident, and the matrix incorporates good cause due to passage of time. The rule will provide a basis for OLCC to deny a license if the matrix points show the applicant is not an acceptable risk for future liquor law compliance.
Rules Coordinator: Katie Hilton—(503) 872-5004

845-005-0327

Applicant not an Acceptable Future Compliance Risk

(1) ORS 471.313(1) allows the Commission to deny a license that public interest or convenience does not demand. ORS 471.313(4) and OAR 845-005-0325 specify license refusal bases related to the applicant's personal qualification for a license. The matrix at section (6) of this rule is the decision-making tool the Commission uses in lieu of using any of the following license refusal bases individually: ORS 471.313(4)(b) — false statements to the Commission. ORS 471.313(4)(d) — convicted of felony or violating a liquor law in Oregon. OAR 845-005-0325(4) — record or history of using alcohol or controlled substances to excess. OAR 845-005-0325(5) — felony conviction. OAR 845-005-0325(6) — false or misleading information to the Commission. An incident or conviction that is relevant under the matrix may also be relevant under a license refusal law or rule that is outside the matrix. In such a case, the Commission may choose to evaluate such an incident or conviction directly under the applicable provision that is outside the matrix.

(2) An individual who receives a total of ten or more points under the matrix in section (6) of this rule is not an acceptable liquor law compliance risk. If an individual receives ten or more points under the section (6) matrix, the Commission shall deny the license application as to that individual, except as provided in this rule.

(3) Points stated in the section (6) matrix of this rule are assigned for each separate conviction or incident. Where more than one such row would be applicable based on a single incident, such as hit-and-run when intoxicated, only the highest points of a single row shall be counted.

(4) The Commission shall not count points assigned to an individual through the section (6) matrix if:

(a) At the time of the incident or conviction giving rise to the points, the individual had a medically diagnosed disability, which diagnosis was made prior to or as the result of the incident or conviction; and

(b) The individual has released to the Commission the diagnosis, and a certificate or statement from the physician or treatment provider that the individual has completed or is actively involved in a state-certified treatment program for controlled substance or alcohol abuse, and is following treatment recommendations; or, for other medically diagnosed disabilities, the individual has released to the Commission the diagnosis, and a certificate or statement from the physician or treatment provider that the individual is receiving treatment, as appropriate, and is following any treatment recommendations; and

(c) Where addiction to a substance is the basis of the disability, the individual has not used or consumed the substance within 24 months of the date of the license application, and the individual has met all other licensing requirements of the Commission, the Commission may issue the individual a license expressly conditioned on the individual's continued abstinence from using or consuming the substance. Use or consumption of said substance shall be grounds for immediate cancellation of the license.

(5) As used in this rule,

(a) "Conviction" includes a plea of no contest. Time passage after a conviction is counted from the date of conviction or the date the individual is released from custodial supervision, whichever date is later, to the date of the current liquor license application filing.

(b) Time passage after an incident not resulting in a conviction is counted from the incident date to the date of the current liquor license application filing.

(c) "Material fact" means any fact which would affect application of this rule.

(6) Matrix:

(a) Felony Conviction: Driving while suspended or any crime involving violence or the threat of violence, alcohol, or controlled substances. Points: Under 4 years — 10 points; From 4 to 6 years — 7 points; From 6 to 12 years — 4 points.

(b) Misdemeanor Conviction for any crime involving, or resulting from use of, alcohol or controlled substances, or incident of violence or unlawful behavior involving, or resulting from the use of, alcoholic beverages or controlled substances. Points: Under 4 years — 5 points; From 4 to 6 years — 3 points; From 6 to 10 years — 1 point.

(c) Driving under the influence of intoxicants or while intoxicated or impaired unless found not guilty. Time passage is from date of incident. Points: Under 2 years — 6 points; From 2 to 4 years — 5 points; From 4 to 6 years — 4 points; From 6 to 8 years — 3 points; From 8 to 12 years — 2 points; From 12 to 20 years — 1 point.

(d) Intentional Misrepresentation or Omission of Material Fact to OLCC. Points: Current application — 10 points; Under 1 year — 6 points; From 1 to 5 years — 4 points.

Stat. Auth.: ORS 471, including 471.030; 471.040 & 471.730(1), (2) & (5)
Stats. Implemented: ORS 471.311, 471.313 & 471.315
Hist.: OLCC 3-2003, f. 3-31-03 cert. ef. 4-1-03

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Adm. Order No.: OLCC 4-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 12-1-02
Rules Amended: 845-006-0345
Subject: This rule lists a variety of actions and activities which the Commission prohibits. The amendments add a new section (11) to the rule. The new section lists three types of promotions which are prohibited.
Rules Coordinator: Katie Hilton—(503) 872-5004

845-006-0345
Prohibited Conduct

(1) Drinking on Duty: No licensee, permittee, employee or agent will drink or be under the influence of intoxicants while on duty. "On duty" means from the beginning of a work shift that involves the sale or service of alcoholic beverages, checking identification or controlling conduct on the premises, to the end of the shift including coffee and meal breaks. "A work shift that involves the sale and service of alcoholic beverages" includes supervising those who sell or serve, check identification or control the premises.

(2) No licensee or permittee will fail to call the police when a Commission regulatory employee directs the licensee or permittee to call.

(3) Evidence: No licensee or permittee will:

(a) Destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so;

(b) Refuse to give a Commission regulatory employee or police officer this evidence when the employee or officer lawfully requests it; or

(c) Ask or encourage another person to do subsections (a) or (b) of this section.

(4) Access to Premises:

(a) No licensee or permittee will deny entrance to the licensed premises during regular business hours to a Commission regulatory employee or police officer who enters or wants to enter to conduct reasonable search to ensure compliance with alcoholic beverage law. Once the regulatory employee or police officer is on the licensed premises, no licensee or permittee will ask the regulatory employee or officer to leave until the regulatory employee or officer has had an opportunity to conduct a reasonable search to ensure compliance with the alcoholic beverage laws;

(b) Examination of premises that are or appear closed occurs only when there is reason to believe an alcoholic beverage law violation is occurring. No licensee or permittee will refuse or fail to promptly admit a Commission regulatory employee or police officer to the licensed premises when the regulatory employee or officer identifies him/herself and asks to enter to conduct a reasonable search to ensure compliance with the alcoholic beverage laws.

(5) Open Containers: No licensee or permittee will permit a person to take an open container of alcoholic beverages from the licensed premises, except as ORS 471.178, 471.200 and 471.175 allow.

(6) Liquor on Premises: No licensee or permittee will have or permit any alcoholic liquor on the licensed premises which the license does not allow the licensee to sell or serve.

(7) Drive-up Window: No licensee or permittee who sells alcoholic beverages for off-premises consumption will sell or deliver any alcoholic beverages through a drive-up window. This prohibition does not apply to licenses permitting distilled spirits by the drink which were in existence and operating with a food service drive-up window prior to November 1, 1998.

(8) Liquor as a Prize: Except as allowed in ORS 471.408, no licensee or permittee will give or permit any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, or any competition of any kind on the licensed premises.

(9) "Good Faith Effort": ORS 471.315(1)(g), and 471.412(2) prohibit a licensee or permittee from knowingly allowing a visibly intoxicated person to drink alcoholic beverages. A licensee or permittee who makes a good faith effort to remove the alcoholic beverage does not violate these statutes.

(a) As used in ORS 471.412(2) and this rule, "good faith effort" means:

(A) Placing a hand on the drink and trying to remove it; or

(B) Making a verbal request for the drink, if the server has reason to believe that touching the patron's drink could cause a disturbance.

(b) The Commission will issue letters of reprimand for the first three violations of this section within a two-year period. A fourth violation within a two-year period is a Category III violation assessed at the fourth level (cancellation).

(10) No Limited On-Premises Sales licensee, or the licensee's agent or employee, shall sell or otherwise provide a keg of malt beverages to go off-premises from any area where the Commission allows minor patronage. Violation of this section is a Category III violation.

(11) Promotions. Prohibited practices include:

(a) The sale, offer or service to any person of an unlimited number of alcoholic beverage(s) during any set period of time for a fixed price.

(b) Temporary price reductions on alcoholic beverages after 12:00 midnight.

(c) Conducting, operating, organizing, or promoting any "drinking contest" or "drinking game" that is designed to increase consumption at an extraordinary speed, or in increased quantities, or in a more potent form.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.178, ORS 471.200, ORS 471.315(1)(g), ORS 471.412(2), ORS 471.408 & ORS 471.675
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 6-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 4-2003, f. 3-31-03 cert. ef. 4-1-03

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Adm. Order No.: OLCC 5-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 12-1-02
Rules Amended: 845-009-0140
Subject: This rule describes how the agency administers the use of purchasing Age Verification Equipment in lieu of paying a civil penalty or serving a license suspension for sale to minor. The amendments will encourage licensees to purchase and use this equipment at the time of the first violation, rather than waiting until after a second or third violation for sale of alcohol to a minor.
Rules Coordinator: Katie Hilton—(503) 872-5004

845-009-0140
Age Verification Equipment

(1) As used in this rule:

(a) "Retail licensee" and "licensee" mean a retail licensee as defined in ORS 471.392;

(b) "Violation" means a violation by a retail licensee or an employee of a retail licensee for sale of alcoholic beverages to a minor, or for failure to properly verify identification of a person who purchases alcoholic beverages;

(c) "Equipment and "age verification equipment" mean equipment that verifies the age of customers who purchase alcoholic beverages. The equipment must trigger an age verification process or the equipment itself must verify the age. In either case, the equipment must indicate to the licensee or employee if the customer is of legal age to purchase alcoholic beverages.

(2) If a retail licensee or an employee of a retail licensee sells alcoholic beverages to a minor, or fails to properly verify identification of a person who purchases alcoholic beverages, the Commission may allow the licensee to obtain and use age verification equipment to partially offset or in lieu of a civil penalty or denial, suspension, or cancellation of the license. (ORS 471.342)

(3) For the first violation in a two year period, the licensee may choose to purchase age verification equipment in lieu of paying a standard civil penalty or serving a suspension. The licensee is responsible for paying or serving any portion of the sanction charged in excess of the standard sanction due to aggravating circumstances. A licensee may choose this option only one time per license. If the licensee purchased equipment before the first sale, the Commission may allow the licensee to use the purchase of the equipment in lieu of paying a civil penalty or serving a suspension, if the licensee has not previously received this option.

(4) If the violation is the licensee's second or subsequent violation in a two year period, the Commission may consider the purchase and use of equipment as mitigation to reduce the sanction. The Commission may approve mitigation up to a 10 day reduction of a suspension, or up to the equivalent $1650 reduction in a civil penalty. A licensee is eligible for this relief only one time per license, and may not use this mitigation if the licensee has already purchased age verification in lieu of a civil penalty or suspension per (3) of this rule.

(5) The licensee must notify the Commission within 15 days of receiving the Commission's Notice of Violation of their intention to obtain and use the equipment. The licensee must be using the equipment within 30 days of receiving the Notice of Violation.

(6) The licensee must use the equipment at every point of sale used to sell alcoholic beverages.

Stat. Auth.: ORS 471, including ORS 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.342
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 5-2003, f. 3-31-03 cert. ef. 4-1-03

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Oregon State Lottery
Chapter 177

Adm. Order No.: LOTT 3-2003(Temp)
Filed with Sec. of State: 3-28-2003
Certified to be Effective: 4-7-03 thru 9-30-03
Notice Publication Date:
Rules Adopted: 177-099-0095
Rules Amended: 177-099-0000, 177-099-0020, 177-099-0030, 177-099-0040, 177-099-0050, 177-099-0080, 177-099-0090, 177-099-0100
Subject: Keno is being modified to include a "Keno Multiplier" as an optional game feature. It multiplies certain prizes won. The annuitized prize payment option is being amended to change the annuity period from 20 years to 25 years, and redefine the lump sum payment option. The other proposed amendments are housekeeping and grammar.

No changes are being made to OAR 177-099-0010 (Game Description) or OAR 177-099-0060 (Ticket Validations).
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-099-0000
Definitions

For the purposes of Keno, the following definitions apply except as otherwise specifically provided in OAR Chapter 177 or unless the context requires otherwise:

(1) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a game ticket that had been purchased for play in multiple drawings and was validated before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing dates appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(2) "Game play" means the number or group of numbers appearing on a ticket for a particular spot which is compared to the winning numbers, selected at the drawings appearing on the ticket, to determine the prize payment for which the ticket may be redeemed.

(3) "Game slip" or "play slip" means a paper form used by a player to select a game play, that indicates the amount the player will play on the ticket containing the game play, the number of drawings in which the ticket will be played, the choice to play the Special Keno option, and the choice to select the Keno Multiplier option. Only one game play may be marked on each game slip.

(4) "Game ticket" or "ticket" means a computer-generated, printed paper issued by a terminal as a receipt for the game play selected by a player and which contains the following: the caption "Keno", one game play, the dates of the drawings in which the ticket may be played, the number of consecutive drawings in which the ticket may be played, the identifying number for each such drawing, the price of the ticket, a six-digit retailer number, a serial number, a bar code, the phrase "Special Keno" if that option has been selected, and the phrase "Keno Multiplier" if that option has been selected.

(5) "Keno Multiplier" means the Keno and Special Keno play option whereby a player, by paying an additional one dollar for each dollar wagered on a Keno or Special Keno game play, may be entitled to receive a larger prize for correctly selecting winning numbers. Keno Multiplier multiplies the amount of certain prizes won in a game play. Keno Multiplier is an optional, limited extension of the Keno and Special Keno game and is effective beginning at 6:00 A.M., April 7, 2003.

(6) "Quick Pick" means the random selection of numbers by a terminal that appear as the game play on a ticket.

(7) "Special Keno" means an optional variation of the Keno prize payment and odds structure as defined in OAR 177-099-0090 which may be selected by the player.

(8) "Spot" means the amount of numbers a player may play for a game play. A player may play from one spot, i.e., one number, to ten spots, i.e., ten different numbers.

(9) "Winning numbers" means the twenty numbers, from one to eighty, that are selected at each drawing that are used to determine winning game plays contained on the game tickets.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240 & ORS 461.250
Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 7-1998(Temp), f. & cert. ef. 11-13-98 thru 5-7-99; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0020
Price

(1) The price of a ticket is determined by the amount of money a player chooses to play on the game plays selected, multiplied by the number of drawings in which the ticket will be played. A player may also choose the Keno Multiplier option that will increase the cost of the ticket by $1.00 for every $1.00 wagered.

(2) A ticket may be purchased for one drawing or for multiple, consecutive drawings.

(a) A player may purchase a ticket for a single drawing for $1.00 to $5.00, in whole dollar amounts, $10.00, or $20.00.

(b) The price of a ticket for play in multiple, consecutive drawings is the price of a ticket for a single drawing, ranging from $1.00 to $5.00, $10.00 or $20.00 as selected by the player, multiplied by the number of consecutive drawings in which the ticket will be played.

(3) The minimum ticket price for multiple, consecutive drawings is $2.00 ($1 x 2 consecutive drawings = $2).

(4) The maximum ticket price for any Keno ticket is $100.00.

(5) A ticket purchased for multiple, consecutive drawings is limited solely to the following options: 1, 2, 3, 4, 5, 10, 20, 50, or 100 consecutive drawings so long as the price of a ticket does not exceed $100.00.

(6) If a player adds the Keno Multiplier option to a Keno or Special Keno game play, the player may only play a maximum of 50 consecutive draws at $2, for a total of $100.

(7) A game slip indicating a price greater than $100 is automatically rejected by the terminal.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240 & ORS 461.250

Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0030
Ticket Purchase, Characteristics, and Restrictions

(1)(a) General: Keno tickets may be purchased every day of the year during the hours of operation of the Lottery's On-Line game system and a Lottery retailer's business hours.

(b) Default: A player may purchase a ticket for play under either the Keno prize structure set forth in OAR 177-099-0080, or the Special Keno prize structure set forth in OAR 177-099-0090. If a player does not select the Special Keno option when purchasing a ticket, the ticket is played under the Keno prize structure.

(c) Multiplier Option: A player may purchase the Keno Multiplier option on any Keno or Special Keno game play as set forth in OAR 177-099-0020(6). If a player does not select the Keno Multiplier option when purchasing a ticket, the ticket is played under the Keno or Special Keno prize structure.

(2)(a) Ticket purchase: Tickets may be purchased either from a terminal operated by a retailer, i.e., a clerk-operated terminal, or from a terminal operated by the player, i.e., a player-operated terminal. To play Keno, a player must complete a game slip for input into a terminal, request a Quick Pick from a clerk, or request a Quick Pick using a player-operated terminal.

(b) Completing a game slip: A player must choose a game play by one of two methods. A player may select from one to ten numbers from the eighty number choices contained on the game slip. Alternatively, the player may select the Quick Pick option. A player must also complete the selections on the game slip regarding the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings in which to play the ticket and the price of the ticket. The player may select the Special Keno option or the Keno Multiplier option.

(c) Purchasing a ticket from a clerk-operated terminal: After the player completes a game slip and submits it along with the price of the ticket to the clerk, the clerk shall use the terminal to issue a ticket to the player. The player may also request that a clerk, without using a game slip, electronically submit a request for a Quick Pick through the terminal with the player informing the clerk of the number of spots to be played, the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings in which to play the ticket, and whether the player wants the Special Keno option or the Keno Multiplier option.

(d) Purchasing a ticket from a player-operated terminal: A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal. Once the player has completed the game slip and inserted it and paid the price of the ticket into the terminal, the terminal will issue a ticket to the player. The player may also request a Quick Pick without using a game slip by using the player-operated terminal. A player requesting a Quick Pick from a player-operated terminal without using a game slip must select either the Keno or Special Keno option, the number of spots to be played, the amount of money to be played on the ticket per drawing, the number of multiple, consecutive drawings to be played, and whether the player wants the Keno Multiplier option.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240 & ORS 461.250
Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0040
Cancellation of Tickets

A player may cancel a Keno ticket. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240 & ORS 461.250
Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0050
Drawings

(1) General: Drawings shall take place at such times and upon such intervals as determined by the Director. Drawings shall normally take place at five-minute intervals. The first drawing each day shall take place five minutes after the On-Line game system is activated. The last drawing shall take place at the end of the On-Line game system activation for the day.

(2) Objective: Each drawing randomly selects twenty numbers from a possible eighty numbers that are the winning numbers. The winning numbers selected at each drawing are generated through the use of a computer-driven random number generator.

(3) Selection of the Keno Multiplier Number: The Lottery will conduct a separate random Keno Multiplier drawing and announce the result prior to each of the regular Keno drawings by displaying the Keno Multiplier number on the Keno monitor immediately prior to each new Keno game drawn and after the previous game pool closes. During each random Keno Multiplier drawing, one number will be selected. The Keno Multiplier numbers available for selection are 1, 2, 3, 5, and 10. The Keno Multiplier number selected at each drawing is generated through the use of a computer-driven random number generator in accordance with the provisions of OAR 177-046-0080.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240 & ORS 461.250
Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LC 5-1996, f. & cert. ef. 4-1-96; LC 3-1997, f. 4-25-97, cert. ef. 4-27-97; LOTT 7-1998(Temp), f. & cert. ef. 11-13-98 thru 5-7-99; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0080
Keno Prizes

Section (1) of this rule specifies prizes for Keno drawings.

(1) Prizes for each drawing are determined and awarded based on how many numbers contained in a game play on a ticket match the winning numbers selected at that drawing. Prizes are determined separately for each spot category. Prizes per one dollar wagered, based upon potential sales of $8,911,711.18 per drawing, are as follows: [Table not included. See ED. NOTE.]

(2) The total prize amount for a winning ticket multiplies according to the amount wagered on that ticket. Except as provided in OAR 177-099-0100, the highest potential prize for any Keno ticket is $1,000,000 per drawing. If a ticket shows a wager of 2, 3, 4, 5, 10, or 20 dollars per drawing on a winning game play, the prize shown above for a $1 wager shall multiply, up to $1,000,000, according to the wager amount shown on the winning ticket. For example, if a ticket shows a $5 wager on the 8 spot category and the game play on the ticket matches 8 out of 8 of the winning numbers, the prize associated with that ticket is $15,000 x $5 = $75,000. All Keno prizes are capped at $1,000,000. However, Jackpot Bonus prizes awarded are in addition to the $1,000,000 prize.

(3) A prize-winning player is paid in one lump sum for all prizes under $1,000,000.

(4) Upon the Lottery's determination that a ticket is a winning ticket, the winner of a $1,000,000 annuitized prize has the option to receive a lump sum payment of $500,000 instead of the annuitized prize payments in accordance with the provisions of OAR 177-0099-0090(6)(a) through (e).

(5) For each drawing, a player may receive (subject to the validation requirements set forth in OAR 177-099-0060) only the highest single prize for which a ticket containing a winning game play is eligible.

(6) Prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200,
Hist.: LC 3-1991, f. & cert. ef. 7-24-91; LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0090
Special Keno Prizes

(1) Special Keno increases the size of the prizes at the upper tier levels, and eliminates some prizes at the lower tiers of the prize structure when compared to the Keno prize structure.

(2) As described in OAR 177-099-0030, a player must indicate the player's choice to play under the Special Keno prize structure. When the Special Keno prize option is designated on a ticket, the Keno prizes described in OAR 177-099-0080 are no longer applicable.

(3) Prizes for each drawing are determined and awarded based on how many numbers contained in a game play on a ticket match the winning numbers selected at that drawing. Prizes are determined separately for each spot category. Prizes per one dollar wagered, based upon potential sales of $8,911,711.18 per drawing, are as follows: [Table not included. See ED. NOTE.]

(4) Except as provided in OAR 177-099-0100, the highest potential prize for a Special Keno ticket per drawing is $1,000,000. A prize-winning

player is paid in one lump sum for all prizes under $1,000,000. A $1,000,000 Special Keno prize is paid either as a $1,000,000 annuity payable in twenty-five equal annual payments, or as a lump sum of $500,000. All Special Keno prizes are capped at $1,000,000. However, Jackpot Bonus prizes awarded are in addition to the $1,000,000 prize.

(5) Special Keno prizes multiply according to the amount played per drawing. If a ticket shows a wager of 2, 3, 4, 5, 10, or 20 dollars per drawing on a winning game play, the prize shown above for a $1 wager shall multiply, up to $1,000,000, according to the wager amount shown on the winning ticket. If a prize is multiplied by the amount played and the aggregate prize amount exceeds the amount authorized in section (4) of this rule as the highest potential prize for Special Keno, the winner will receive the $1,000,000 annuitized prize.

(6) Upon the Lottery's determination that the ticket is a winning ticket, the winner of a $1,000,000 annuitized prize has the option to receive a lump sum payment of $500,000 instead of the annuitized prize payments.

(a) Within 60 days of the date of validation of the $1,000,000 ticket, the winner, prior to receiving any prize payment from the Lottery, may acknowledge in writing the winner's election to receive either the lump sum payment or the annuitized prize payments. Subject to the limited exception provided in section (b) below, a winner's election is irrevocable once the winner's written election is received by the Lottery.

(b) A prize winner who has elected the annuitized prize payments or who has failed to make an election and is placed on the annuitized prize payments, may be permitted, at the Lottery's sole discretion, to convert to the lump sum payment provided the Lottery has not yet made any payments to the prize winner. Once the Lottery makes any payment, the choice of payment is irrevocably fixed.

(c) Multiple $1,000,000 annuitized prize winners, jointly claiming ownership of a ticket in accordance with OAR 177-046-0100(2), shall make individual determinations whether to exercise the option to receive their portion of the prize in the form of a lump sum payment.

(d) In the event a $1,000,000 annuitized prize winner does not exercise the option to receive a lump sum payment within 60 days of the date of the validation of the ticket, the winner shall receive the annuitized prize.

(e) A $1,000,000 annuitized prize winner is under no obligation to exercise the option made available by this rule to receive a lump sum payment in lieu of receiving annuitized prize payments.

(7) For each drawing, a player may receive (subject to the validation requirements set forth in OAR 177-099-0060) only the highest single prize for which a ticket containing a winning game play is eligible.

(8) Prize payments must be claimed, and are made, in accordance with the provisions of OAR 177-070-0025.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200,
Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0095
Keno Multiplier Option

(1) When the Keno Multiplier option is selected on a winning Keno or Special Keno game ticket, the prize amount is multiplied by the Keno Multiplier number. The Keno Multiplier number (1, 2, 3, 5, or 10) is randomly selected prior to each drawing.

(2) The following table sets forth the probability of the various Keno Multiplier numbers being selected during a single Keno Multiplier drawing: [Table not included. See ED. NOTE.]

(3) A prize multiplied by the Keno Multiplier is subject to all Keno or Special Keno rules applicable to the particular prize won.

(4) The Director, in the Director's sole discretion, is authorized to initiate and terminate the Keno Multiplier option.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200,
Hist.: LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

177-099-0100
Keno Jackpot Bonus

(1) In addition to the prizes described in OAR 177-099-0080 and 177-099-0090, 2.10% of gross Keno sales (excluding sales of the Keno Multiplier option) for each drawing is allocated between three prize pools held in reserve as an additional prize for winners of the top prize in the 6, 7, and 8 spot categories, i.e., 6 out of 6, 7 out of 7, and 8 out of 8. A Jackpot Bonus prize is awarded when a ticket wins the top prize for either the 6, 7, or 8 spot under OAR 177-099-0080 or OAR 177-099-0090. If the Jackpot Bonus prize pool for a specific spot is not won, the Jackpot Bonus prize pool for that spot continues to grow.

(2) If a game play on a ticket is for a 6, 7, or 8 spot, the ticket is automatically playing for the Jackpot Bonus prize, as well as a prize under either OAR 177-099-0080 or 177-099-0090. For example, if a Keno ticket with a 6 spot game play is the only Keno or Special Keno ticket to match 6 out of 6 of the winning numbers, that ticket, subject to ticket validation requirements, would win the top prize for the 6 spot under OAR 177-099-0080 ($1,600) and the accumulated Jackpot Bonus prize for the 6 spot.

(3) The prize money in the Jackpot Bonus prize pool for a specific spot for any given drawing is divided by the number of tickets winning the top prize for that spot under either OAR 177-099-0080 or OAR 177-099-0090. The Jackpot Bonus prize pool is divided among those winning tickets on a pro-rata basis determined by the amount that each winning ticket played in the drawing in which the Jackpot Bonus prize was won. For example, if one Keno ticket wins the top prize for the 8 spot ($15,000) in a drawing, and was purchased for ten drawings at $3 per drawing, and one Special Keno ticket wins the top prize for the 8 spot ($25,000) in the same drawing, and was purchased for one drawing at $1, the holder of the Keno ticket would receive 75% of the prize in the Jackpot Bonus prize pool for the 8 spot and the holder of the Special Keno ticket would receive the remaining 25% of the prize in that Jackpot Bonus prize pool.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: Or. Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 3-1999, f. 3-25-99, cert. ef. 4-4-99; LOTT 3-2002(Temp) f. & cert. ef. 2-4-02 thru 8-2-02; LOTT 7-2002, f. & cert. ef. 4-29-02; LOTT 19-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 30-2002, f. & cert. ef. 11-25-02; LOTT 3-2003(Temp), f. 3-28-03, cert. ef. 4-7-03 thru 9-30-03

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Adm. Order No.: LOTT 4-2003(Temp)
Filed with Sec. of State: 4-15-2003
Certified to be Effective: 4-15-03 thru 10-10-03
Notice Publication Date:
Rules Amended: 177-085-0005, 177-085-0035
Subject: OAR 177-085-0005 (Definitions) and OAR 177-085-0035 (Prize Payment) are being amended to conform the Powerball rules to the model rules of the Multi State Lottery Association (MUSL). The amendments consist of removing provisions that initiated the bonus prize only when jackpot was projected by MUSL to reach a new high.
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 under these rules. 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

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; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03

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 reaches a new high annuitized amount, through a procedure as determined by the Group, 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 otherwise 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 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; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03

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Oregon State Marine Board
Chapter 250

Adm. Order No.: OSMB 3-2003
Filed with Sec. of State: 3-31-2003
Certified to be Effective: 3-31-03
Notice Publication Date: 2-1-03
Rules Amended: 250-018-0010, 250-018-0060, 250-018-0080
Subject: The 1999 Legislature passed HB 2977 which requires the Marine Board to adopt Administrative Rules to implement a program for mandatory boating education. The Board adopted rules at the October 12, 2000 meeting. Since that time some questions about specific definitions and exemptions have been brought to the attention of Staff. At the January 7, 2003 meeting, the Marine Board directed Staff to open the rule and solicit comment on some housekeeping amendments.
Rules Coordinator: Jill E. Andrick—(503) 373-1405, ext. 243

250-018-0010
Definitions

As used in this Division the following definitions apply:

(1) "Approved Course Provider" is any individual or organization who instructs a National Association of State Boating Law Administrators (NASBLA) approved boating safety course and who has been approved by the Oregon State Marine Board.

(2) "Boater Education Card" is the boating safety certificate required by ORS 830.086 and 830.094. This document, issued by the Marine Board, certifies that the person named on the card has established proof of competency and is authorized to operate a boat in Oregon under ORS 830.082 to 830.096.

(3) "Boating Safety Course" is any NASBLA approved course of instruction that is offered by an approved course provider and concludes with an examination containing at least 50 questions including a minimum of 10 specific questions about Oregon boating laws.

(4) "Correspondence Course and Self Test" means a boating safety course and examination provided by the Marine Board that is taken at home without a proctor. After, January 1, 2001, this correspondence course and self test will satisfy minimum standard of boating safety education competency only for those individuals who have qualified for hardship status.

(5) "Direct Supervision" occurs when a person maintains close visual and verbal contact with, provides adequate direction to, and can immediately assume control of a motorboat from the operator of a motorboat. A person who is water skiing, or is in the cabin of a boat is not considered to be in direct supervision. Direct supervision is referred to in ORS 830.090 and 830.088.

(6) "Dockside Safety Checklist" is a document provided by the Marine Board that consists of selected facts about Oregon boating laws that a rental or livery agent is required to present to renters/operators of motorboats and must be read and checked by the renter and/or operator of the motorboat before a motorboat can be rented and operated.

(7) "Equivalency Exam" is a comprehensive written examination created by the Board containing at least 75 questions including a minimum of 10 specific questions about Oregon boating laws. The equivalency exam is intended to provide experienced boat operators with the opportunity to meet the minimum standard of boating safety education competency without having to take a boating safety course.

(8) "Hardship" means a situation or condition that prevents an individual from attending a boating safety course or taking an equivalency exam in person within a reasonable amount of time or within reasonably close proximity to the individual's place of residence. The situation or condition must also keep the individual from taking an approved Internet course. A hardship situation may allow an individual to utilize a correspondence course and self test provided by the Marine Board to meet the minimum standard of boating safety education competency. An individual must submit a written request for hardship status. The Marine Board director or his designee has the authority to grant or deny hardship status.

(9) "Minimum Standard of Boating Safety Education Competency" means a standard of proficiency established by the Marine Board based on the standards set by NASBLA that determines whether an applicant for a boater education card has met or exceeded the requirements of a boating safety course, equivalency exam or correspondence course and self test.

(10) "Proctor" is an individual who is a member of the U. S. Coast Guard Auxiliary, U.S. Power Squadron, American Red Cross, or other public safety organization or whose organization has been approved by the Marine Board to administer an equivalency exam. A "proctor" may also be a public official such as a librarian or community college instructor who has been approved by the Marine Board to administer an equivalency exam.

(11) "Proof of Competency" is a document verifying that an individual has achieved the minimum standard for boating safety education competency as determined by the Marine Board.

(12) "Temporary Boater Education Card" is a document issued by the Marine Board allowing the bearer to operate a motorboat in Oregon for a period of time not to exceed 60 days as provided in ORS 830.082 to 830.096.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.082 - ORS 830.096
Hist.: OSMB 6-2000, f. & cert. ef. 10-30-00; OSMB 10-2001, f. & cert. ef. 10-29-01; OSMB 3-2003, f. & cert. ef. 3-31-03

250-018-0060
Dockside Checklist

(1) Beginning May 1, 2002 any person who provides a motorboat for rent in Oregon must require that the renter and/or operator of the rental motorboat show proof of possession of a boater education card before renting the person a motorboat.

(2) If the renter and/or operator of the rented motorboat does not possess a boater education card, the rental agent must provide the renter and/or operator of the craft with a dockside checklist provided by the Marine Board.

(3) The renter and/or operator of a rental motorboat must review and mark the dockside checklist in the presence of the rental agent before they may operate the rental motorboat.

(4) The renter and/or operator of the rental motorboat must retain the dockside checklist on board when operating the boat.

(5) It is not required that every person who will operate the rented craft complete the checklist. A person over the age of 16 may operate the rented craft if they are accompanied and directly supervised by a person over the age of 16 (18 for personal watercraft) who is carrying a boater education card or proof of completing the dockside safety checklist.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.082 - ORS 830.096
Hist.: OSMB 6-2000, f. & cert. ef. 10-30-00; OSMB 3-2003, f. & cert. ef. 3-31-03

250-018-0080
Exemptions

(1) ORS 830.092 states that non-resident boaters will be exempt from carrying a card if operating in Oregon waters for under 60 days. This exemption will apply only to non-residents age 12 and older. No one age 11 and under, whether a resident of this state or not, may operate a power boat of any horsepower after January 1, 2003. Non-resident youth age 12-15 are exempt from carrying the boater education card.

(2) In addition to the exemptions granted in ORS 830.092:

(a) A person operating a seaplane with a valid license issued by the Federal Aviation Administration (FAA) and a seaplane endorsement is not required to carry a boater education card. Seaplane pilots must possess a boater education card to operate a recreational boat.

(b) A person operating a motorboat in an authorized competitive marine event on a course authorized by the Marine Board, or engaged in practicing for a competitive power boat race on a course authorized by the Marine Board is not required to carry a boater education card.

Stat. Auth.: ORS 830.110
Stats. Implemented: ORS 830.082 - ORS 830.096
Hist.: OSMB 6-2000, f. & cert. ef. 10-30-00; OSMB 10-2001, f. & cert. ef. 10-29-01; OSMB 3-2003, f. & cert. ef. 3-31-03

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Oregon University System, Western Oregon University
Chapter 574

Adm. Order No.: WOU 1-2003
Filed with Sec. of State: 4-2-2003
Certified to be Effective: 4-2-03
Notice Publication Date: 2-1-03
Rules Amended: 574-050-0005

Subject: Amendments allow for increases, additions, revisions and deletions of special course fee and general service fees for Western Oregon University.
Rules Coordinator: Darin Silbernagel—(503) 838-8175

574-050-0005
Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[Publications: Publications referred are available from the agency.]
Stat. Auth.: ORS 351.070 & ORS 351.072
Stats. Implemented: ORS 351.070 & ORS 351.072
Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03

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Oregon Watershed Enhancement Board
Chapter 695

Adm. Order No.: OWEB 1-2003(Temp)
Filed with Sec. of State: 4-10-2003
Certified to be Effective: 4-12-03 thru 10-8-03
Notice Publication Date:
Rules Adopted: 695-020-0041
Rules Amended: 695-020-0040
Subject: The Oregon Watershed Enhancement Board will adopt rules to provide the Board with the authority to accept emergency grant applications for instream water leases and water lease renewals in response to drought conditions.
Rules Coordinator: Bonnie King—(503) 986-0181

695-020-0040
Application Processing

(1) The Board will announce periods for submitting applications as funding is available.

(2) The Board may accept emergency grant applications for instream water leases in response to drought conditions under the conditions specified in OAR 695-020-0042.

(3) Project applications will be reviewed for compliance with the items in OAR 695-020-0030(1)(a) through (p).

(4) Projects not funded may be resubmitted during application submission periods prescribed by the Board.

Stat. Auth.: ORS 541.380(1) & ORS 541.380(2)(a)
Stats. Implemented: ORS 541
Hist.: GWEB 3-1987(Temp), f. & ef. 9-25-87; GWEB 1-1988, f. & cert. ef. 3-31-88; GWEB 3-1989, f. & cert. ef. 7-31-89; GWEB 1-1990, f. & cert. ef. 8-8-90; GWEB 1-1997, f. & cert. ef. 10-29-97; OWEB 1-2001(Temp), f. & cert. ef. 4-16-01 thru 10-1-01; OWEB 2-2001, f. & cert. ef. 6-13-01; OWEB 1-2003(Temp), f. 4-10-03, cert. ef. 4-12-03 thru 10-8-03

695-020-0041
Drought Emergency Water Conservation Grants

To enable the Board to respond quickly to threats to aquatic watershed functions, fish and wildlife habitat, and water quality due to drought conditions:

(1) Outside the regular grant review schedule set by staff, the Board may accept emergency grant applications responding to drought conditions to fund short-term instream water leases at any time during the temporary rule period. The Board will consider such applications at times designated by staff.

(2) A drought emergency grant application shall include the information described in OAR 695-020-0051(2), (3), (4), and (6), with the exception of (6)(a).

(3) The Director may waive procedural requirements otherwise applicable to grant applications where necessary to consider drought emergency grant applications in a manner responsive to the emergency.

(4) These temporary rules will expire on October 8, 2003.

Stat. Auth.: ORS 541.380(1) & ORS 541.380(2)(a)
Stats. Implemented: ORS 541
Hist.: OWEB 1-2003(Temp), f. 4-10-03, cert. ef. 4-12-03 thru 10-8-03

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Public Utility Commission
Chapter 860

Adm. Order No.: PUC 5-2003
Filed with Sec. of State: 4-14-2003
Certified to be Effective: 4-14-03
Notice Publication Date: 1-1-03
Rules Amended: 860-022-0070
Subject: The amendment to OAR 860-022-0070 modifies section (7) by changing the sunset date to allow the annual earnings review for gas utilities required by the rule to continue.
Rules Coordinator: Lauri Salsbury—(503) 378-4372

860-022-0070
Procedures and Standards for Reviewing Gas Utility Rates in the Context of the Purchased Gas Adjustment Mechanism

(1) The purpose of sections (1) through (7) of this rule is to ensure that earnings of a natural gas utility local distribution company ("gas utility" or "LDC") with a purchased gas adjustment ("PGA") mechanism are not excessive prior to passing through prudently incurred base gas cost changes in rates through a mechanism which is fair to all parties and efficient to administer. For purposes of this rule, earnings are excessive only if a gas utility does not share with its customers past revenues related to earnings that exceed an earnings threshold determined by the Commission.

(2) Prudently incurred base gas cost changes will be included in rates through tracking filings, subject to the Commission's review of gas cost purchasing practices at the time of those filings.

(3) A separate, simplified earnings review will be conducted on an annual basis independent of and in advance of the PGA filings. The purpose of such an earnings review is to determine whether the gas utility's earnings are above an earnings threshold so as to require some sharing of revenue with customers before passing through base gas cost changes. The purpose is not to make a forward-looking, permanent change in rates.

(4) In an earnings review conducted under this rule, it is reasonable for PGA base gas cost changes to be passed through into rates if, in circumstances when the gas utility's earnings in the prior year were above an earnings threshold determined in section (5) of this rule, revenue representing a percentage of earnings in that year above that earnings threshold is shared with customers.

(5) The standards to be applied in an earnings review under this rule for each LDC are as follows:

(a) Test year: The test year for the earnings review will be the calendar year immediately prior to the year in which the PGA filing is made, unless otherwise specified by the Commission.

(b) Normalization and adjustments: The test year results will be adjusted with a predetermined list of rate-making adjustments equivalent to those applied in the gas utility's most recent general rate proceeding.

(c) Earnings threshold: There will be no revenue sharing required for years when a gas utility's return on equity from utility operations in Oregon is lower than the earnings threshold determined by the Commission for each LDC. Neither this value nor any of the components implied in establishing it will be precedential in a general rate case involving any Oregon public utility.

The Commission will update the value for the earnings threshold annually for each LDC, pursuant to a mechanism established by order of the Commission for each LDC, to reflect changes in conditions in the capital markets. Upon a showing of good cause, the Commission may consider other relevant factors in addition to changes in conditions in the capital markets.

(d) Sharing percentage: The amount of revenue in a test year representing a specified percentage of the earnings above the earnings threshold will be shared with customers. The Commission by order will determine the sharing percentage for each LDC.

(e) Deferral and amortization: Any revenue determined for the gas utility for a test year under section 5(d) of this rule will be deferred as of December 31 of the test year. The balance in the deferred account will accrue interest from that date at the LDC's rate of return on rate base determined in its last general rate case. Interest will continue to accrue at this rate during the amortization period, which will begin on the date of the next PGA rate change and extend for twelve months. The Commission by order

will determine the method for allocating amounts to be amortized among customer classes.

(6) Each LDC will file test year results of operations by May 1. Any person may request to be placed on a list to receive all such earnings review filings at the time they are submitted to the Commission or may request a copy of individual filings. Any person wishing to participate as a party shall so notify the Commission and other parties via letter. Commission staff will complete its review and distribute summary conclusions by June 10 to all parties. Staff will present the results of the earnings review at the first regular public meeting in July; alternatively, if issues are unresolved among all parties, a settlement conference including all parties will be conducted. By August 1, the parties will file position statements with the Commission on unresolved issues, if needed. The Commission will issue its decision on unresolved issues, if any, by September 15. Unless otherwise directed by the Commission, each LDC will file its annual gas cost tracking filing by October 15, including amortization of credit amounts in the deferred account, if any, resulting from the earnings review.

(7) The earnings review mechanism established under the terms of this rule will be effective for four years, with earnings reviews conducted in 2003 counting as the first year. The mechanism will be reviewed for potential extension after the fourth year.

(8) Application of earnings reviews conducted under this rule to amortization of deferred gas costs: The results of the earnings review conducted under this rule will be applicable to amortization of deferred gas costs if the LDC has a risk sharing mechanism for variations in commodity gas costs, as defined in the PGA tariff, that allocates less than 33 percent of the risk to the LDC. An earnings review will not be applicable to amortization of deferred gas costs if the LDC assumes at least 33 percent of the responsibility for commodity cost differences in the risk sharing mechanism. The Commission may modify this requirement if it authorizes an alternative incentive mechanism relating to variations in gas costs for an LDC.

Stat. Auth.: ORS 183 & ORS 757
Stats. Implemented: ORS 757.210 & ORS 757.259
Hist.: PUC 1-1999, f. & cert. ef. 4-21-99; PUC 5-2003, f. & cert. ef. 4-14-03

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Racing Commission
Chapter 462

Adm. Order No.: RC 1-2003
Filed with Sec. of State: 3-27-2003
Certified to be Effective: 4-1-03
Notice Publication Date: 3-1-03
Rules Amended: 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
Subject: Amends 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, stake races; order of finish, dead heats, prize dissention; purchase, sale and adoption.
Rules Coordinator: Carol N. Morgan—(503) 731-4052

462-110-0030
Greyhound Racing

The following definitions and interpretations shall apply in these rules unless otherwise indicated or text otherwise requires. (Words of the masculine gender include the feminine and neuter. Words in the singular include the plural and vice versa):

(1) "Abandonment": Intentionally, knowingly, recklessly or with negligently leaving a racing animal at a location without providing for the animal's continued care.

(2) "Added Money": A sum by which established purse is increased.

(3) "Adequate Food": The provision, at intervals of not more than 24 hours or less if the dietary requirements of the greyhounds so require, of a quantity of foodstuff suitable for the greyhounds and sufficient to maintain a proper level of nutrition in each greyhound. The foodstuff shall be served in a clean receptacle, dish or container.

(4) "Adequate Water": Access to a supply of clean, fresh potable water provided in a sanitary manner and provided at suitable intervals for the greyhounds to maintain proper hydration.

(5) "Adoption Group": Means a non-profit organization endorsed by MGP and OGA to facilitate the adoption of greyhounds.

(6) "Adoption Kennel": Means an ORC approved facility used to house greyhounds awaiting adoption.

(7) "Age": Length of time since whelping.

(8) ''Assistant Trainer": a person designated by the kennel owner or trainer to assist the trainer in the performance of the trainer's duties.

(9) "Authorized Agent": An individual granted designated powers to act for the owner through a written instrument signed by the owner and filed in accordance with the Rules of Greyhound Racing. A person with power of attorney to act for another is an authorized agent.

(10) "Assumed Name": A name other than the true name of a person on the license application. Assumed names are limited to agreements involving no more than two people and they are governed by OAR 462-120-0050(2) which governs partnerships.

(11) "Bertillon": A card showing identifying features of a greyhound.

(12) "Boarding Kennel": Means a place or establishment where greyhounds are sheltered, fed, watered or trained in return for a consideration.

(13) "Breeder": Means a person who breeds male or female greyhounds for the purposes of pari-mutuel racing. .

(14) "Established/Set Weight": The official racing weight.

(15) "False Start": When the starting box door is not automatically opened and the backup mechanical release operated by the starter does not work on the first attempt.

(16) "Forfeit": Money due but lost because of an error, fault, neglect of duty, breach of contract, or a penalty.

(17) "Graded": A greyhound that has won an official race, or began the current race meet at age 25 months or older, or has been allowed to move up a grade at the trainer's request.

(18) "Graded Maiden": A maiden which has not won an official race, but has been allowed to move up to a higher grade at the trainer's request.

(19) "Greyhound": Any dog that is registered with the NGA.

(20) "Greyhound Owner": person(s) or entity whose name appears on the NGA ownership certificate.

(21) "Holding Kennel": A facility approved by the board of judges to hold greyhounds awaiting adoption after they have been processed through an adoption kennel.

(22) "Interference": Physical contact by a greyhound which obstructs or impedes the running of another which appears to be intentional, other than the normal bumping which is inevitable in a race.

(23) "Invitational Race": A special race approved by the commission, consisting of greyhounds currently racing in Oregon and greyhounds currently racing at other tracks which have been invited to compete.

(24) "Invitational Race Preparation": An informal race for purposes of familiarizing greyhounds competing in an invitational race with the track and allowing patrons to observe greyhounds competing in Oregon.

(25) "Judges": The persons employed or approved by the commission who are responsible for the proper conduct of a race meet. The terms judges and board of judges are used interchangeably with the terms stewards and board of stewards.

(26) "Kennel Compound": A kennel area provided by the race meet licensee.

(27) "Kennel Crate": Any structure within a kennel used to contain an individual greyhound.

(28) "Kennel Housing Facilities": Any room, building or area used to contain greyhounds.

(29) "Kennel Name (Assumed Name)": The name used by a racing kennel, other than the full legal name or names of the owner(s).

(30) "Kennel Owner": Person(s) or entity(ies) that own a racing kennel.

(31) "Kennel Roster": A list of all greyhounds competing for a contracted kennel during the race meet. Said list shall also contain the full name and address of all persons having an ownership interest in the kennel and/or any greyhound named on the list.

(32) "Lead Out": An attendant employed by the race meet licensee whose responsibilities include putting greyhounds in the lockout kennels, leading to and loading a greyhound in the starting box, and returning the greyhound to the kennel representative after the race.

(33) "Lease Certificate": A Racing Commissioners International Uniform Lease or other written document stating the name/s of the lessee and the lessor and the terms and purpose of the lease.

(34) "Lessee": A person who holds a registered lease certificate for the racing of a greyhound in the person's name.

(35) "Lessor": A person who owns a greyhound and who leases part or all of it to another person.

(36) "Licensee": Any person or entity holding a currently valid license to engage in greyhound racing or related regulated activities.

(37) "Lure": A mechanical apparatus consisting of a stationary rail installed around the running surface, a motorized mechanism which travels

on the rail, a pole which is attached to the mechanism and extends over the running surface and to which is attached an inorganic object to attract the greyhound.

(38) "Maiden": A greyhound which is at least 15 months old, began the current race meet at an age less than 25 months old, has never won an official race (including maiden graduation race) in any country, and has never run an official race as a graded maiden. Conditions referring to a maiden shall mean maidens at the time of starting. A maiden which has been disqualified after finishing first is still to be considered a maiden.

(39) "Maiden Graduation Race": An official race, upon which no wagering is permitted and on which a purse is paid, with the entire field of entries made up of qualified maiden greyhounds.

(40) "Matinee": A schedule of races conducted upon a race track in daylight hours.

(41) "Minor": Any person under the age of 18 year.

(42) "NGA": The National Greyhound Association of Abilene, Kansas.

(43) "Night Performance": A schedule of races conducted upon a race track during night hours.

(44) "Official Racing": A race where pari-mutuel wagering is permitted.

(45) "Official Schooling Racing": A race for qualifying purposes only, where pari-mutuel wagering is prohibited.

(46) "Oregon Bred Greyhound": A greyhound which was whelped in Oregon and was physically present in Oregon for the first 12 months immediately following its whelping.

(47) "Oregon Greyhound Farm": A facility licensed by the ORC to breed, whelp, raise, train and/or board dogs whelped of a dam and sire registered by the NGA.

(48) "Overage Maiden": A maiden that is 25 or more months old on the first day of the race meet. A greyhound is considered 25 months old on the first day of the month following its second birthday.

(49) "Ownership Registration Certificate": A certificate issued by the NGA showing that the greyhound has been properly registered with the NGA.

(50) "Post Time": The time set for the release of the greyhounds from the starting box in a race.

(51) "Primary Enclosure": Any structure used to contain a greyhound such as a pen, room or run.

(52) "Program": A schedule of races of either a matinee or night performance conducted in any racing day.

(53) "Public Training Track": Any racecourse, the facilities of which are available or open to the public for use in the training or schooling of racing animals.

(54) "Race": A race is competition among greyhounds under the circumstances provided by the rules of greyhound racing which requires the presence of at least two (2) judges. Either a non wagering qualifying or a wagering race shall be official. All maiden graduation races are also official.

(55) "Race Meet" or "Race Meeting": An entire period for which a license to conduct greyhound racing has been granted by the commission, including a continuous meeting or continuous race meeting.

(56) "Race Track": That area of the racecourse laid out for racing and excluding any adjacent or fringe areas accessible to the racers.

(57) "Racing Kennel": Means a kennel which participates in pari-mutuel racing and training services at a greyhound race track in return for a consideration.

(58) "Racing Muzzle": A plastic or leather muzzle, the entire nose section of which is white.

(59) "Racing Official":

(a) Commission officials include the presiding judge, deputy judge, commission veterinarians, photofinish operator, commission chief investigator, commission investigators, supervisor of licensing and pari-mutuels, commission auditors and any other commission employee designated by the commission or the executive director.

(b) Race meet licensee include the race meet licensee judge, director of racing, racing secretary, paddock judge, kennel master, track superintendent, starter, lure operator, announcer, mutuel manager, chart writer, program editor, director of security and any other person designated by the commission or the executive director.

(60) "Restricted Area": Includes, but is not limited to, the kennel compound, office of the racing secretary, test area enclosure, paddock area, lock out kennels, the rooms occupied by the judges, lure operator, chart writer, photofinish operator, video camera and control system, announcer's booth, pari-mutuel work areas, totalizator computer room, and any other area designated as "restricted" by the commission.

(61) "Rule Off": The act of barring any licensee or other person or greyhound from the grounds of a race meet licensee and denying all racing or other privileges.

(62) "Scratch": To remove an entered greyhound from a race after the drawing for the post positions in that race.

(63) "Special Race": A race drawn by the racing secretary which may pay enhanced points on the race meet licensee's purse schedule, the mutuel handle for which is included in the computations of weekly handle and weekly purses, and may have an added fixed dollar enhancement. This race shall be designated as an "AT" race.

(64) "Stake Race": A race which has special entry conditions approved by the board of judges for a set purse amount the mutuels handle for which is included in the computation of weekly handle and weekly purses for all non stakes races run during the week.

65) "Starter":

(a) A greyhound which is in the starting box at the time the starting box opens at the beginning of a race.

(b) A person hired by the race meet licensee to supervise the loading of the greyhounds into the starting box, and operate the starting box for official racing.

(66) "Stewards": See definition of judges in subsection 25 of this rule.

(67) "Trainer": A person employed by a greyhound owner or kennel owner to condition greyhounds for racing and performs duties of a trainer on the racecourse and in the kennel.

(68) "Trainer's Roster": A list of each person employed on the racecourse during the race meet by a contracted kennel.

(69) "Vendor": Any person who solicits the sale of goods or services (used to feed, care for or equip racing greyhounds) to greyhound owners, kennel owners or trainers.

(70) "Vets List": A list of greyhounds maintained by the commission veterinarian which the commission veterinarian has reason to believe have a health or physical problem which could affect their racing performance or could endanger other greyhounds.

(71) "Weight Loser": A greyhound which consistently loses too much weight between weigh-in and weigh-out, as determined by the racing secretary and the commission veterinarian. (Greyhounds other than weight losers may be placed on the "Weight Loser's List", pursuant to OAR 462-140-0070(11)(d)(A).

(72) "Whelped": The time of a greyhound's birth.

(73) "Withdraw": To remove an entered greyhound from a race after the greyhound has been drawn into the race but prior to the post position draw.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-140-0120
Commission Photofinish Operator

(1) The photofinish operator shall maintain the photofinish and timing equipment in proper working order, shall photograph each race, and shall notify the stewards/judges if lighting is insufficient to take adequate photos.

(2) When the "photo" sign is posted by the stewards/judges, the photofinish operator shall prepare a photograph which shall be promptly made available for public viewing.

(3) The photofinish operator shall keep all photofinish plates, negatives or digital files for each race. These plates, negatives or digital files shall be available for reference or reproduction at the commission office for 90 days after the last day of the race meet.

(4) The photofinish operator shall declare the official time of the race. The time of the race shall be taken from the opening of the doors of the starting box or gate. The photofinish operator shall use the time shown on the timing device.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-140-0400
Director of Racing

(1) The director of racing shall have general supervision of the racing secretary, paddock judge, kennel master and clerk of scales hired by the race meet licensee, and shall make periodic reports to the board of judges about the conduct of such officials.

(2) The director of racing may be designated pro-tem member of the board of judges, at the discretion of the presiding state judge, as a short-term substitute for the association judge.

(3) Matters related to booking contracts let by the association shall be interpreted and if necessary resolved by the director of racing and is subject to the review of the board of judges.

(4) The director of racing shall speak for the race meet licensee in the day-to-day operation of the racing department as chairperson of that department, and shall be responsible for compliance with the rules of greyhound racing by the licensees within that department.

(5) The director of racing (or designee) will compile and keep a complete relocation summary, which will include the following and any other information required by the board of judges:

(a) The greyhound's name, the kennel in which it ran, the registered owner and, if applicable, the date it departed MGP;

(b) The greyhound's destination, which will be one of the following:

(A) Adoption and, if so, through which agency;

(B) Other racetrack and, if so, which track;

(C) Owner;

(D) Farm (other than owner) and, if so, name of farm owner;

(E) Deceased, cause.

(6) The director of racing will follow up and confirm relocation of all greyhounds following the conclusion of the race meet and obtain any other information as requested by the board of judges.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-140-0420
Kennel Owner

(1) Prior to the first official entry of the race meet the kennel owner (or designee) shall submit to the racing secretary a completed kennel roster. Said list shall be kept current throughout the race meet as changes or additions occur.

(2) The kennel owner (or designee) must provide the director of racing (or designee) written notification of the disposition of each greyhound whose NGA paper was turned in during the race meet. Notification must occur:

(a) Within seven (7) days prior to the end of the race meet;

(b) Within seven (7) days of the greyhound's removal from racing at the race meet if prior to the season's end; or

(c) Before receipt of the greyhound's NGA paper from the racing office. Such notification must include to what track the greyhound was moved, to which adoption agency the greyhound was given, and any other information needed for the judges to determine disposition of the greyhound.

(d) Licensees will cooperate with the relocation process.

(3) The kennel owner shall provide a sufficient number of qualified licensed persons to provide for the proper care of greyhounds and cleanliness and maintenance of kennel and related facilities.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-140-0460
Paddock Judge and Kennel Master

(1) The paddock judge shall complete the identification card (Bertillon) for each greyhound prior to the designated weigh-in time for its first official schooling. The paddock judge shall ensure that the greyhound in question conforms to the card index identification and shall report any discrepancies to the judges.

(2) Under the supervision of the paddock judge and in cooperation with the commission veterinarian, the kennel master shall unlock the lock-out kennels immediately before weigh-in to see that the lock-out kennels are in good repair and that nothing has been deposited in them for the greyhounds to consume. The kennel master shall see that the lock-out kennels are sprayed, disinfected, and kept in proper sanitary condition. The kennel master or assistant shall receive each greyhound from its trainer, one at a time, and see that it is placed in its kennel. From that time, the kennel master shall remain on duty until the greyhounds are removed for the last race.

(3) The paddock judge or designee shall not allow anyone to present for weigh in a greyhound for official schooling or official racing except the greyhound's kennel owner, trainer, or licensed groom designated on the kennel roster.

(4) As each greyhound is weighed in, the paddock judge, kennel master or designee shall assure that an identification tag is attached to the greyhound's collar indicating the number of the race in which the greyhound is entered and its post position. This tag shall not be removed until the greyhound has been weighed out and blanketed.

(5) After the greyhounds are placed in the lock-out kennels, no person, except a commission veterinarian, may enter the lock-out kennels alone. No one except a commission veterinarian may enter the lock-out kennels unless accompanied by either a commission employee or representative, or an executive/official of the race meet licensee. The paddock judge or kennel master must be notified in advance whenever anyone enters the lock-out kennels.

(6) Before the greyhounds leave the paddock for the starting box, the paddock judge or kennel master shall carefully compare each greyhound with its Bertillon and shall make sure that each greyhound is equipped with a regulation racing muzzle and the appropriate blanket. The paddock judge or designee shall examine all blankets and muzzles to be sure that they are properly fitted before the greyhounds leave the paddock.

(7) The paddock judge or kennel master shall randomly assign lead-outs to the respective post positions before each racing program. However, in the case of a greyhound which is difficult to handle, the paddock judge or kennel master may assign the greyhound to a particular lead-out whom is believed to be most capable of properly handling the greyhound. The paddock judge or kennel master shall maintain a written record of lead-out assignments.

(8) The paddock judge shall be responsible for having the scales checked for accuracy by a certified person prior to the beginning of the race meet and at least once every 30 days thereafter.

(9) The paddock judge is responsible for the management of the kennel master, scale clerk and lead-outs. Any and all comments to these association employees about their performance, by those other than racing officials, must first be made to the paddock judge.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-170-0030
Grading System

(1) When a greyhound's NGA paper has been submitted to the racing secretary prior to official schooling, the racing secretary will assign a grade to the greyhound. The grade will be determined by the grade in which the greyhound started its last race at its most previous track; however, a greyhound who's previous race was grade "maiden" and who won that race shall be placed in grade D. The racing secretary may use a track rating list on file in the secretary's office in adjusting grades of greyhounds racing at tracks given lower ratings, but in no case may a greyhound be lowered more than one grade. No greyhound will be initially placed in Grade E.

(2) The grades, in descending order, shall be A, B, C, D, E and M. The grade shall be composed according to the following rules:

(a) Over age maidens shall be initially graded in Grade D, shall carry the letter M beside their name in the program, and shall then conform to all grading system rules as graded greyhounds (i.e., must finish fourth or better in four starts in Grade D).

(b) Grade M will be composed of maidens.

(3) When a greyhound wins a race, it shall be advanced one grade, until it reaches Grade A. A greyhound which wins a maiden or maiden graduation race shall be advanced two grades to Grade D, unless its win came in its fourth or subsequent start and its owner or trainer requests that it only be advanced to Grade E.

(4) Upon request of the owner or trainer, and with approval of the board of judges, a maiden may become a graded maiden and may advance to Grade D if it finishes second in an official maiden or maiden graduation race. The request must be made within two starts after the greyhound finished second. Under extraordinary circumstances, the judges may waive this requirement.

(5) A greyhound that fails to finish at least third in three consecutive starts in the same grade will be lowered one grade until it reaches Grade D.

(6) A greyhound racing officially in Grade D will be dropped a grade if:

(a) It started the meet graded and fails to finish fourth or better in four consecutive starts.

(b) If it started the meet in grade maiden and fails to finish fourth or better in six consecutive starts.

(7) A greyhound officially racing in Grade E may be dropped from further competition if it fails to finish third or better in three consecutive starts in Grade E.

(8) At the request of the trainer, the board of judges may lower a greyhound racing in Grades A, B, C, or D one grade, whenever it is determined

by the board of judges that the greyhound's performance justifies the grade change. The following guidelines shall be considered but not binding:

(a) A greyhound may be lowered one grade if it finishes seventh, eighth or ninth in its first start during a race meet at odds of 15 to 1 or more;

(b) A greyhound may be lowered one grade if it finishes further back than fourth in its first two starts during a race meet at odds of 10 to 1 or more;

(c) Except in extraordinary circumstances, a greyhound which has been dropped a grade should not be dropped a second grade until it has raced twice in its new grade.

(9) Any greyhound (except Grade E) which has had an official start at the current race meet and has been off 45 days because of illness or injury shall be lowered one grade only, upon the request of the trainer and notification of the board of judges.

(10) A greyhound which has been raised or lowered to a new grade as a result of its performance in an elimination heat in the Oregon-bred Juvenile, Futurity or Sapling Derby may be returned to its previous grade if the owner or trainer obtains approval of the board of judges.

(11) A greyhound racing in Grade M or in maiden graduation races may be dropped from further competition if it fails to finish fourth or better within six starts.

(12) Grading changes which are mandated by section (3), (5), (6) and (7) of this rule shall be made automatically unless the board of judges unanimously agrees that the application of the rule would result in misgrading the greyhound.

(13) Greyhounds of different grades may be used in all races except 5/16ths of a mile. These races may be made up by the racing secretary, giving preference to suitable greyhounds on the preferred lists. Winners of these races shall be advanced one grade from their previous grade. If the greyhound fails to win (See section (5) of this rule), the start will count in the usual manner. Those mixed grade races shall be identified by the letter "T". This same procedure shall govern stake races, but these shall be identified by the letter "S", and special races shall be identified by the letters "AT".

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 2-2000, f. 3-27-00, cert. ef. 4-3-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 2-2002, f. 3-29-02, cert. ef. 4-1-02; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-170-0050
Forming the Race; Withdrawals; Stake Races

(1) A greyhound may not be drawn into or start a race unless all of the following requirements are met:

(a) The greyhound must continue to be properly entered for official racing and must meet all of the entry requirements;

(b) The greyhound must be in the hands of a licensed trainer, approved by the Board of Judges;

(c) The greyhound must be of the proper grade and meet all other race qualifications;

(d) If the greyhound has been scratched or withdrawn for medical or physical reasons (except weight scratches) since its last official race, the commission veterinarian must give approval for it to race;

(e) Except for "special races", if the greyhound is on the "Weight Loser's List", it may only be drawn into the first five races on any race day, without prior authorization from the commission veterinarian;

(f) Two greyhounds from the same kennel may be drawn into any race. Double entries shall be uncoupled for wagering purposes.

(g) Greyhounds of different grades may be used in all races except 5/16ths of a mile (except as provided for in "stakes" or "special" races). These races may be made up by the racing secretary, giving preference to suitable greyhounds on the preferred list.

(h) Under extraordinary circumstances, triple entries may be allowed with the approval of the trainer and board of judges, where no other qualified entrants are available.

(2) Any special entry requirements, including qualifying times and purses, for particular races or classes of races must be approved by the commission. The number and nature of stake and special races must be approved by the commission; however, subsequent to this approval, should emergency situations arise, the board of judges may make single-item changes or additions, with immediate subsequent notification to the commission of such action. The conditions of entry for all special and stake races shall be submitted by the racing secretary and approved by the board of judges.

(3) The racing secretary may select from greyhounds of the same grade to fill five (5) races each week. The racing secretary must select from Oregon-bred greyhounds to fill at least one (1) Oregon-bred exclusive race per performance. The racing secretary may make no more than twelve (12) races per week. All other races except stake and special races shall be drawn by lot in the presence of a member of the board of judges or an appointed representative of the board of judges and any representative(s) of the kennels who wish to attend. If there is not a sufficient number of qualifying Oregon-bred greyhounds to fill the Oregon-bred greyhound race for a performance, the racing secretary may enter other greyhounds in the race in addition to the available qualifying Oregon-bred greyhounds.

(4) In forming the races for the overnight draw, the racing secretary shall establish the grades of the various races, based upon the available entries and giving the better grades preference. The greyhounds left over after the drawing of a race shall have priority in the next races of that grade to be drawn.

(5) After the overnight draw and prior to the post position draw, a greyhound owner or trainer may withdraw the greyhound from a race for good cause. However, the owner or trainer may be fined or suspended if the racing secretary did not approve the withdrawal. After withdrawal of a greyhound, the racing secretary may replace the greyhound in accordance with the grading system rules. Any greyhound withdrawn from a race longer than 550 yards must make its next start in a race of the same distance, unless excused by the racing secretary for good cause.

(6) Post positions for all official racing (except for official schooling) shall be drawn by the racing secretary, in the presence of a member of the board of judges or their designee and conducted in the racing secretary's office. The draw will take place no later than one day prior to the running of the race. Post positions for special events (i.e. stakes races) shall be conducted as stated in the stake race condition sheets. Post positions for official schooling races shall be drawn by the racing secretary.

(7) After the post position draw, any removal of a greyhound from a race constitutes a scratch, and must be ordered or approved by the judges, after a showing of good cause.

(8) No greyhound may be drawn into an official pari-mutuel or maiden graduation race after the post positions are drawn. No greyhound may be drawn into an official schooling race after post positions are published, except under extraordinary circumstances, or in the case of clerical errors. Late additions to schooling must be approved by the director of racing and the board of judges.

(9) Except in special, stakes, stakes elimination and official schooling races, there must be at least four separate greyhound ownership entities represented or the race will be cancelled.

(10) Special Races. In the event the number of entries to any special race is in excess of the number of greyhounds that may, because of track limitations, be permitted to start, the starters for the race shall be determined by the racing secretary.

(11) If, before post positions are drawn, a greyhound is removed from a race by its trainer from a race already drawn, and the reason for the withdrawal is "sore" or "needs rest", the greyhound shall be removed from both that draw and the following draw. It shall be the trainer's responsibility to re-enter the greyhound after this condition is met.

(12) All aspects of this section shall apply to maiden graduation races.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 2-2000, f. 3-27-00, cert. ef. 4-3-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 2-2002, f. 3-29-02, cert. ef. 4-1-02; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-170-0080
Order of Finish; Dead Heats; Prize Dissention

(1) The winner of a race shall be the greyhound whose muzzle first reaches the finish line, unless the greyhound is disqualified by the judges for ineligibility or other good cause. In the event a greyhound loses its muzzle or finishes with a hanging muzzle, the tip of the greyhound's nose shall determine its order of finish. The order of finish for all other places shall be determined in a like manner.

(2) When two or more greyhounds reach the finish line at the same time, or it is impossible to determine from the photo finish photographs/digital images which of the greyhounds reached the finish line first, the judges shall declare a dead heat. When greyhounds run a dead heat, all money and prizes to which the greyhounds would have been entitled if it were not a dead heat shall be divided equally among them. When a dead heat is for first place, each greyhound finishing first in the dead heat shall be deemed a winner.

(3) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot in the presence of one or more of the judges.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 2-2000, f. 3-27-00, cert. ef. 4-3-00; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

462-180-0010
Purchase, Sale, and Adoption

(1) All NGA registered greyhounds offered for adoption must be processed through an ORC approved adoption kennel.

(2) Records shall be made and retained for a period of 12 months for each greyhound sold, or adopted from a licensee. Records shall include date of sale or transfer, identification of greyhound, names and addresses of seller and purchaser or transferor and recipient, and source of greyhound.

(3) Upon receipt of a dated and notarized bill of sale which involves a greyhound participating in the current race meet, the judges may authorize the racing secretary to mail, at owner's expense, the sold greyhound's papers to the NGA for transfer of ownership. The greyhound may continue to participate (for a period of 14 calendar days) in pari-mutuel races with a photocopy of the NGA registration paper on file in the racing office. The judges will place a "hold" on any purse earned by the sold greyhound until such time as the NGA paper reflecting the new ownership/transfer is returned by the NGA to the racing secretary and approved by the board of judges.

(4) Adoption groups shall furnish a statement of adoption to the following: each recipient of a greyhound, MGP's animal welfare coordinator, and the association from which the greyhound came. This statement shall include: name and address of the owner, name and address of the recipient, name and address of the adoption group, date of sterilization, date of adoption, description or identification of the greyhound adopted, rabies and other immunizations(s) and date(s) administered.

(5) Sterilization agreements shall contain the following:

(a) Name, address and signature of the person receiving custody of the greyhound from the adoption kennel.

(b) A complete description of the greyhound, including any identification.

(c) The date that the sterilization was completed.

(d) Signature of veterinarian performing the surgery.

(6) All greyhounds which are known to be exposed to or show symptoms of having infectious and contagious diseases or which show symptoms of parasitism or malnutrition sufficient to adversely affect the health of the greyhounds are restricted from adoption.

(7) Any greyhound under the jurisdiction of the commission which has not been placed through the Oregon Greyhound Association adoption kennel must reside with a commission licensee who will provide adequate care, safety and comfort for that greyhound.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 2-2000, f. 3-27-00, cert. ef. 4-3-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 1-2003, f. 3-27-03 cert. ef. 4-1-03

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Secretary of State, Elections Division
Chapter 165

Adm. Order No.: ELECT 2-2003(Temp)
Filed with Sec. of State: 3-18-2003
Certified to be Effective: 3-18-03 thru 5-20-03
Notice Publication Date:
Rules Adopted: 165-020-2020
Subject: The Willamina Fire Protection District position #5 has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before the May 20, 2003 Special District Election. This rule allows the county to provide public notice of the vacancy, accept candidate filings and voters' pamphlet filings after the statutory deadlines for candidate and voters' pamphlet statement filings.
Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-2020
Extended Deadlines for Willamina Fire Protection District, Position #5

The following deadlines apply: March 22, 2003: Last date for clerk to publish notice of vacancy in newspaper of general circulation in the district, in accordance with ORS 255.245. March 27, 2003: Last date for candidates to file declaration of candidacy with Yamhill county clerk. Last date for candidates, wishing to appear in the voters' pamphlet, to submit voters' pamphlet information to Yamhill County Clerk, (In accordance with OAR 165-022-0010).

Stat. Auth.: ORS 246.150, ORS 255.245
Stats. Implemented: ORS 255.245
Hist.: ELECT 2-2003(Temp), f. & cert. ef. 3-18-03 thru 5-20-03

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Adm. Order No.: ELECT 3-2003(Temp)
Filed with Sec. of State: 3-18-2003
Certified to be Effective: 3-18-03 thru 5-20-03
Notice Publication Date:
Rules Adopted: 165-020-3030
Subject: The Henley Middle School District, Position #2 has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before the May 20, 2003 Special District Election.

This rule extends the deadlines for the Klamath County Clerk to receive declarations of candidacy for the vacancy in office and allows the county to provide the public notice required under ORS 255.245.
Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-3030
Extended Deadline for Henley Middle School District, Position #2

The following deadlines apply: March 22, 2003: Last date for clerk to publish notice of vacancy in newspaper of general circulation in the district, in accordance with ORS 255.245. March 27, 2003: Last date for candidates to file declaration of candidacy with Klamath county clerk.

Stat. Auth.: ORS 246.150, ORS 255.245
Stats. Implemented: ORS 255.245
Hist.: ELECT 3-2003(Temp), f. & cert. ef. 3-18-03 thru 5-20-03

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104-080-0030	1-15-03	Amend	2-1-03
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141-035-0045	1-1-03	Amend	2-1-03
141-035-0046	1-1-03	Repeal	2-1-03
141-035-0047	1-1-03	Amend	2-1-03
141-035-0048	1-1-03	Adopt	2-1-03
141-035-0050	1-1-03	Amend	2-1-03
141-035-0055	1-1-03	Amend	2-1-03
141-035-0060	1-1-03	Amend	2-1-03
141-035-0065	1-1-03	Amend	2-1-03
141-035-0070	1-1-03	Amend	2-1-03
141-040-0005	1-1-03	Amend	2-1-03
141-040-0010	1-1-03	Amend	2-1-03
141-040-0020	1-1-03	Amend	2-1-03
141-040-0030	1-1-03	Amend	2-1-03
141-040-0035	1-1-03	Amend	2-1-03
141-040-0040	1-1-03	Amend	2-1-03
141-040-0200	1-1-03	Amend	2-1-03
141-040-0210	1-1-03	Repeal	2-1-03
141-040-0211	1-1-03	Amend	2-1-03
141-040-0212	1-1-03	Amend	2-1-03
141-040-0214	1-1-03	Amend	2-1-03
141-040-0220	1-1-03	Amend	2-1-03
141-045-0005	1-1-03	Amend	2-1-03
141-045-0010	1-1-03	Amend	2-1-03
141-045-0015	1-1-03	Adopt	2-1-03
141-045-0020	1-1-03	Repeal	2-1-03
141-045-0021	1-1-03	Adopt	2-1-03
141-045-0024	1-1-03	Repeal	2-1-03
141-045-0031	1-1-03	Amend	2-1-03
141-045-0041	1-1-03	Amend	2-1-03
141-045-0061	1-1-03	Amend	2-1-03
141-045-0100	1-1-03	Amend	2-1-03
141-045-0105	1-1-03	Amend	2-1-03
141-045-0115	1-1-03	Amend	2-1-03
141-045-0120	1-1-03	Amend	2-1-03
141-045-0121	1-1-03	Adopt	2-1-03
141-045-0122	1-1-03	Adopt	2-1-03
141-045-0123	1-1-03	Adopt	2-1-03
141-045-0124	1-1-03	Adopt	2-1-03
141-045-0125	1-1-03	Amend	2-1-03
141-045-0126	1-1-03	Adopt	2-1-03
141-045-0130	1-1-03	Amend	2-1-03

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141-045-0155	1-1-03	Amend	2-1-03
141-045-0160	1-1-03	Amend	2-1-03
141-045-0170	1-1-03	Amend	2-1-03
141-045-0180	1-1-03	Amend	2-1-03
141-045-0185	1-1-03	Adopt	2-1-03
141-085-0005	1-15-03	Amend	1-1-03
141-085-0006	1-15-03	Adopt	1-1-03
141-085-0010	1-15-03	Amend	1-1-03
141-085-0015	1-15-03	Amend	1-1-03
141-085-0018	1-15-03	Adopt	1-1-03
141-085-0020	1-15-03	Amend	1-1-03
141-085-0022	1-15-03	Adopt	1-1-03
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141-085-0027	1-15-03	Adopt	1-1-03
141-085-0028	1-15-03	Adopt	1-1-03
141-085-0029	1-15-03	Adopt	1-1-03
141-085-0030	1-15-03	Repeal	1-1-03
141-085-0031	1-15-03	Adopt	1-1-03
141-085-0032	1-15-03	Repeal	1-1-03
141-085-0034	1-15-03	Adopt	1-1-03
141-085-0035	1-15-03	Repeal	1-1-03
141-085-0036	1-15-03	Adopt	1-1-03
141-085-0040	1-15-03	Repeal	1-1-03
141-085-0050	1-15-03	Repeal	1-1-03
141-085-0055	1-15-03	Repeal	1-1-03
141-085-0060	1-15-03	Repeal	1-1-03
141-085-0064	1-15-03	Adopt	1-1-03
141-085-0065	1-15-03	Repeal	1-1-03
141-085-0066	1-15-03	Adopt	1-1-03
141-085-0070	1-15-03	Amend	1-1-03
141-085-0075	1-15-03	Amend	1-1-03
141-085-0079	1-15-03	Adopt	1-1-03
141-085-0080	1-15-03	Amend	1-1-03
141-085-0085	1-15-03	Amend	1-1-03
141-085-0090	1-15-03	Amend	1-1-03
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141-085-0121	1-15-03	Adopt	1-1-03
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141-085-0126	1-15-03	Adopt	1-1-03
141-085-0130	1-15-03	Repeal	1-1-03
141-085-0131	1-15-03	Adopt	1-1-03
141-085-0135	1-15-03	Repeal	1-1-03
141-085-0136	1-15-03	Adopt	1-1-03
141-085-0140	1-15-03	Repeal	1-1-03
141-085-0141	1-15-03	Adopt	1-1-03
141-085-0145	1-15-03	Repeal	1-1-03
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141-085-0151	1-15-03	Adopt	1-1-03
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141-085-0156	1-15-03	Adopt	1-1-03
141-085-0160	1-15-03	Repeal	1-1-03
141-085-0161	1-15-03	Adopt	1-1-03
141-085-0165	1-15-03	Repeal	1-1-03
141-085-0166	1-15-03	Adopt	1-1-03
141-085-0170	1-15-03	Repeal	1-1-03
141-085-0171	1-15-03	Adopt	1-1-03
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141-085-0242	1-15-03	Repeal	1-1-03
141-085-0244	1-15-03	Amend	1-1-03
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141-085-0248	1-15-03	Amend	1-1-03
141-085-0250	1-15-03	Amend	1-1-03
141-085-0252	1-15-03	Amend	1-1-03
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141-085-0256	1-15-03	Amend	1-1-03
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141-085-0258	1-15-03	Repeal	1-1-03
141-085-0260	1-15-03	Repeal	1-1-03
141-085-0262	1-15-03	Amend	1-1-03
141-085-0263	1-15-03	Adopt	1-1-03
141-085-0264	1-15-03	Amend	1-1-03
141-085-0266	1-15-03	Amend	1-1-03
141-085-0300	1-15-03	Repeal	1-1-03
141-085-0306	1-15-03	Repeal	1-1-03
141-085-0310	1-15-03	Repeal	1-1-03
141-085-0315	1-15-03	Repeal	1-1-03
141-085-0320	1-15-03	Repeal	1-1-03
141-085-0325	1-15-03	Repeal	1-1-03
141-085-0330	1-15-03	Repeal	1-1-03
141-085-0335	1-15-03	Repeal	1-1-03
141-085-0340	1-15-03	Repeal	1-1-03
141-085-0345	1-15-03	Repeal	1-1-03
141-085-0350	1-15-03	Repeal	1-1-03
141-085-0355	1-15-03	Repeal	1-1-03
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141-085-0406	1-15-03	Amend	1-1-03
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141-085-0415	1-15-03	Repeal	1-1-03
141-085-0421	1-15-03	Amend	1-1-03
141-085-0425	1-15-03	Amend	1-1-03
141-085-0430	1-15-03	Amend	1-1-03
141-085-0436	1-15-03	Amend	1-1-03
141-085-0440	1-15-03	Amend	1-1-03
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141-085-0630	1-15-03	Amend	1-1-03
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141-089-0070	1-15-03	Repeal	1-1-03
141-089-0075	1-15-03	Repeal	1-1-03
141-089-0081	1-15-03	Repeal	1-1-03
141-089-0086	1-15-03	Repeal	1-1-03
141-089-0091	1-15-03	Repeal	1-1-03
141-089-0100	1-15-03	Adopt	1-1-03
141-089-0105	1-15-03	Adopt	1-1-03
141-089-0110	1-15-03	Adopt	1-1-03
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141-089-0135	1-15-03	Adopt	1-1-03
141-089-0140	1-15-03	Adopt	1-1-03
141-089-0145	1-15-03	Adopt	1-1-03
141-089-0150	1-15-03	Adopt	1-1-03
141-089-0155	1-15-03	Adopt	1-1-03
141-089-0160	1-15-03	Adopt	1-1-03
141-089-0165	1-15-03	Adopt	1-1-03
141-089-0170	1-15-03	Adopt	1-1-03
141-089-0175	1-15-03	Adopt	1-1-03
141-089-0180	1-15-03	Adopt	1-1-03
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141-089-0200	1-15-03	Adopt	1-1-03
141-089-0205	1-15-03	Adopt	1-1-03
141-089-0210	1-15-03	Adopt	1-1-03
141-089-0215	1-15-03	Adopt	1-1-03
141-089-0220	1-15-03	Adopt	1-1-03
141-089-0225	1-15-03	Adopt	1-1-03
141-089-0230	1-15-03	Adopt	1-1-03
141-089-0235	1-15-03	Adopt	1-1-03
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141-089-0245	1-15-03	Adopt	1-1-03
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141-089-0255	1-15-03	Adopt	1-1-03
141-089-0260	1-15-03	Adopt	1-1-03
141-089-0265	1-15-03	Adopt	1-1-03
141-089-0270	1-15-03	Adopt	1-1-03
141-089-0275	1-15-03	Adopt	1-1-03
141-089-0280	1-15-03	Adopt	1-1-03
141-089-0285	1-15-03	Adopt	1-1-03
141-089-0290	1-15-03	Adopt	1-1-03
141-089-0295	1-15-03	Adopt	1-1-03
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141-122-0105	1-1-03	Adopt	2-1-03
141-122-0110	1-1-03	Amend	2-1-03
141-122-0120	1-1-03	Amend	2-1-03
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150-305.220(2)	1-31-03	Amend	2-1-03
150-305.220(3)	1-31-03	Amend	2-1-03
150-305.222	12-31-02	Adopt	2-1-03
150-305.612	12-31-02	Adopt	2-1-03
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150-306.115(J)	12-31-02	Repeal	2-1-03
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150-307.175	12-31-02	Amend	2-1-03
150-307.220-(B)	12-31-02	Amend	2-1-03
150-307.230-(B)	12-31-02	Amend	2-1-03
150-307.240-(B)	12-31-02	Amend	2-1-03
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150-308.290(7)-(B)	12-31-02	Amend	2-1-03
150-308.560	12-31-02	Adopt	2-1-03
150-308.704	12-31-02	Amend	2-1-03
150-308.709	12-31-02	Amend	2-1-03
150-308.712	12-31-02	Amend	2-1-03
150-309.022(1)	12-31-02	Amend	2-1-03
150-309.024-(B)	12-31-02	Repeal	2-1-03
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150-309.100(2)-(C)	12-31-02	Am. & Ren.	2-1-03
150-309.100-(A)	12-31-02	Am. & Ren.	2-1-03
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150-314.280(3)	12-31-02	Adopt	2-1-03
150-314.280-(N)	12-31-02	Amend	2-1-03
150-314.385(1)-(B)	12-31-02	Amend	2-1-03
150-314.525(1)-(A)	12-31-02	Amend	2-1-03
150-314.610(4)-(A)	12-31-02	Repeal	2-1-03
150-314.840	12-31-02	Amend	2-1-03
150-314.840(T)	12-31-02	Repeal	2-1-03
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150-465.517(3)	12-31-02	Adopt	2-1-03
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161-002-0000	1-27-03	Amend	3-1-03
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161-010-0020	1-27-03	Amend	3-1-03
161-020-0015	1-27-03	Amend	3-1-03
161-020-0045	1-27-03	Amend	3-1-03
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161-020-0080	1-27-03	Repeal	3-1-03
161-020-0150	1-27-03	Amend	3-1-03
161-025-0060	1-27-03	Amend	3-1-03
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165-020-0005	12-5-02	Amend(T)	1-1-03
165-020-2020	3-18-03	Adopt(T)	5-1-03
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165-022-0020	2-27-03	Amend(T)	4-1-03
166-115-0010	2-14-03	Adopt	3-1-03
166-475-0010	2-14-03	Amend	3-1-03
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166-475-0020	2-14-03	Amend	3-1-03
166-475-0025	2-14-03	Amend	3-1-03
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166-475-0055	2-14-03	Amend	3-1-03
166-475-0060	2-14-03	Amend	3-1-03
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166-475-0110	2-14-03	Amend	3-1-03
177-005-0000	11-25-02	Repeal	1-1-03
177-010-0000	11-25-02	Amend	1-1-03
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177-010-0005	11-25-02	Repeal	1-1-03
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177-010-0009	11-25-02	Amend	1-1-03
177-010-0020	11-25-02	Repeal	1-1-03
177-010-0025	11-25-02	Amend	1-1-03
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177-010-0085	11-25-02	Amend	1-1-03
177-010-0096	11-25-02	Repeal	1-1-03
177-010-0100	11-25-02	Amend	1-1-03
177-010-0110	11-25-02	Amend	1-1-03
177-010-0120	11-25-02	Amend	1-1-03
177-010-0300	11-25-02	Repeal	1-1-03
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177-040-0050	11-25-02	Amend	1-1-03
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177-040-0120	3-14-03	Amend	4-1-03
177-040-0125	3-14-03	Amend	4-1-03
177-040-0130	3-14-03	Amend	4-1-03
177-040-0160	3-14-03	Amend	4-1-03
177-040-0180	3-14-03	Amend	4-1-03
177-040-0190	3-14-03	Amend	4-1-03
177-046-0010	11-25-02	Adopt	1-1-03
177-046-0020	11-25-02	Adopt	1-1-03
177-046-0030	11-25-02	Adopt	1-1-03
177-046-0040	11-25-02	Adopt	1-1-03
177-046-0050	11-25-02	Adopt	1-1-03
177-046-0060	11-25-02	Adopt	1-1-03
177-046-0070	11-25-02	Adopt	1-1-03
177-046-0080	11-25-02	Adopt	1-1-03
177-046-0090	11-25-02	Adopt	1-1-03
177-046-0100	11-25-02	Adopt	1-1-03
177-046-0110	11-25-02	Adopt	1-1-03
177-046-0120	11-25-02	Adopt	1-1-03
177-046-0130	11-25-02	Adopt	1-1-03
177-046-0140	11-25-02	Adopt	1-1-03
177-046-0150	11-25-02	Adopt	1-1-03
177-046-0160	11-25-02	Adopt	1-1-03
177-046-0170	11-25-02	Adopt	1-1-03
177-050-0000	11-25-02	Repeal	1-1-03
177-050-0002	11-25-02	Amend	1-1-03
177-050-0010	11-25-02	Repeal	1-1-03
177-050-0020	11-25-02	Amend	1-1-03
177-050-0021	11-25-02	Repeal	1-1-03
177-050-0023	11-25-02	Repeal	1-1-03
177-050-0025	11-25-02	Amend	1-1-03
177-050-0027	11-25-02	Amend	1-1-03
177-050-0037	11-25-02	Amend	1-1-03

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177-050-0051	11-25-02	Repeal	1-1-03
177-050-0055	11-25-02	Repeal	1-1-03
177-050-0065	11-25-02	Repeal	1-1-03
177-050-0075	11-25-02	Repeal	1-1-03
177-065-0000	11-25-02	Repeal	1-1-03
177-065-0005	11-25-02	Amend	1-1-03
177-065-0015	11-25-02	Amend	1-1-03
177-065-0020	11-25-02	Amend	1-1-03
177-065-0025	11-25-02	Amend	1-1-03
177-065-0030	11-25-02	Amend	1-1-03
177-065-0035	11-25-02	Amend	1-1-03
177-065-0040	11-25-02	Amend	1-1-03
177-065-0045	11-25-02	Amend	1-1-03
177-065-0055	11-25-02	Amend	1-1-03
177-065-0065	11-25-02	Amend	1-1-03
177-065-0075	11-25-02	Amend	1-1-03
177-065-0080	11-25-02	Amend	1-1-03
177-065-0100	11-25-02	Repeal	1-1-03
177-070-0000	11-25-02	Repeal	1-1-03
177-070-0005	11-25-02	Amend	1-1-03
177-070-0010	11-25-02	Repeal	1-1-03
177-070-0015	11-25-02	Repeal	1-1-03
177-070-0025	11-25-02	Amend	1-1-03
177-070-0035	11-25-02	Amend	1-1-03
177-070-0055	11-25-02	Repeal	1-1-03
177-070-0060	11-25-02	Repeal	1-1-03
177-070-0065	11-25-02	Repeal	1-1-03
177-070-0070	11-25-02	Repeal	1-1-03
177-070-0075	11-25-02	Repeal	1-1-03
177-070-0080	11-25-02	Amend	1-1-03
177-075-0000	11-25-02	Amend	1-1-03
177-075-0005	11-25-02	Amend	1-1-03
177-075-0010	11-25-02	Amend	1-1-03
177-075-0015	11-25-02	Amend	1-1-03
177-075-0020	11-25-02	Amend	1-1-03
177-075-0027	11-25-02	Amend	1-1-03
177-075-0030	11-25-02	Amend	1-1-03
177-075-0035	11-25-02	Amend	1-1-03
177-075-0045	11-25-02	Repeal	1-1-03
177-075-0050	11-25-02	Repeal	1-1-03
177-081-0000	11-25-02	Amend	1-1-03
177-081-0010	11-25-02	Amend	1-1-03
177-081-0020	11-25-02	Amend	1-1-03
177-081-0030	11-25-02	Amend	1-1-03
177-081-0035	11-25-02	Repeal	1-1-03
177-081-0040	11-25-02	Amend	1-1-03
177-081-0050	11-25-02	Amend	1-1-03
177-081-0060	11-25-02	Amend	1-1-03
177-081-0080	11-25-02	Amend	1-1-03
177-081-0090	11-25-02	Repeal	1-1-03
177-085-0005	2-3-03	Amend	3-1-03
177-085-0005	4-15-03	Amend(T)	5-1-03
177-085-0010	2-3-03	Amend	3-1-03
177-085-0015	2-3-03	Amend	3-1-03
177-085-0020	2-3-03	Amend	3-1-03
177-085-0025	2-3-03	Amend	3-1-03
177-085-0030	2-3-03	Amend	3-1-03
177-085-0035	2-3-03	Amend	3-1-03
177-085-0035	4-15-03	Amend(T)	5-1-03
177-085-0040	2-3-03	Amend	3-1-03
177-085-0045	2-3-03	Amend	3-1-03
177-085-0050	2-3-03	Amend	3-1-03
177-085-0055	2-3-03	Repeal	3-1-03
177-085-0065	2-3-03	Amend	3-1-03
177-094-0000	11-25-02	Amend	1-1-03
177-094-0010	11-25-02	Amend	1-1-03
177-094-0020	11-25-02	Amend	1-1-03
177-094-0030	11-25-02	Amend	1-1-03
177-094-0035	11-25-02	Repeal	1-1-03
177-094-0040	11-25-02	Amend	1-1-03
177-094-0050	11-25-02	Amend	1-1-03
177-094-0060	11-25-02	Amend	1-1-03
177-094-0085	11-25-02	Amend	1-1-03
177-094-0090	11-25-02	Repeal	1-1-03
177-094-0095	11-25-02	Repeal	1-1-03
177-099-0000	11-25-02	Amend	1-1-03
177-099-0000	4-7-03	Amend(T)	5-1-03
177-099-0010	11-25-02	Amend	1-1-03
177-099-0020	11-25-02	Amend	1-1-03
177-099-0020	4-7-03	Amend(T)	5-1-03
177-099-0030	11-25-02	Amend	1-1-03
177-099-0030	4-7-03	Amend(T)	5-1-03
177-099-0035	11-25-02	Repeal	1-1-03
177-099-0040	11-25-02	Amend	1-1-03
177-099-0040	4-7-03	Amend(T)	5-1-03
177-099-0050	11-25-02	Amend	1-1-03
177-099-0050	4-7-03	Amend(T)	5-1-03
177-099-0060	11-25-02	Amend	1-1-03
177-099-0080	11-25-02	Amend	1-1-03
177-099-0080	4-7-03	Amend(T)	5-1-03
177-099-0090	11-25-02	Amend	1-1-03
177-099-0090	4-7-03	Amend(T)	5-1-03
177-099-0095	4-7-03	Adopt(T)	5-1-03
177-099-0100	11-25-02	Amend	1-1-03
177-099-0100	4-7-03	Amend(T)	5-1-03
177-099-0110	11-25-02	Repeal	1-1-03
220-005-0010	1-1-03	Amend	1-1-03
250-001-0020	1-14-03	Amend	2-1-03
250-018-0010	3-31-03	Amend	5-1-03
250-018-0060	3-31-03	Amend	5-1-03
250-018-0080	3-31-03	Amend	5-1-03
250-020-0380	1-14-03	Repeal	2-1-03
259-006-0000	4-11-03	Amend	5-1-03
259-008-0000	11-18-02	Amend	1-1-03
259-008-0005	11-18-02	Amend	1-1-03
259-008-0010	11-21-02	Amend	1-1-03
259-008-0010	1-22-03	Amend	3-1-03
259-008-0010	4-11-03	Amend	5-1-03
259-008-0020	11-18-02	Amend	1-1-03
259-008-0035	11-18-02	Amend	1-1-03
259-008-0060	11-21-02	Amend	1-1-03

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259-008-0063	11-18-02	Repeal	1-1-03
259-008-0065	11-18-02	Amend	1-1-03
259-008-0070	11-18-02	Amend	1-1-03
259-008-0070	4-11-03	Amend	5-1-03
259-008-0080	11-18-02	Amend	1-1-03
259-008-0085	11-18-02	Amend	1-1-03
259-008-0087	11-18-02	Repeal	1-1-03
259-009-0000	11-18-02	Adopt	1-1-03
259-009-0005	11-18-02	Adopt	1-1-03
259-009-0010	11-18-02	Adopt	1-1-03
259-009-0020	11-18-02	Adopt	1-1-03
259-009-0025	11-18-02	Adopt	1-1-03
259-009-0030	11-18-02	Adopt	1-1-03
259-009-0035	11-18-02	Adopt	1-1-03
259-009-0062	11-18-02	Adopt	1-1-03
259-009-0063	11-18-02	Adopt	1-1-03
259-009-0067	11-18-02	Adopt	1-1-03
259-009-0070	11-18-02	Adopt	1-1-03
259-009-0072	11-18-02	Adopt	1-1-03
259-009-0080	11-18-02	Adopt	1-1-03
259-009-0085	11-18-02	Adopt	1-1-03
259-009-0087	11-18-02	Adopt	1-1-03
259-009-0090	11-18-02	Adopt	1-1-03
259-009-0100	11-18-02	Adopt	1-1-03
259-020-0005	1-21-03	Amend	3-1-03
259-020-0010	1-21-03	Amend	3-1-03
259-020-0015	1-21-03	Amend	3-1-03
259-020-0025	1-21-03	Amend	3-1-03
259-025-0000	11-21-02	Amend	1-1-03
259-060-0010	1-22-03	Amend	3-1-03
259-060-0015	1-22-03	Amend	3-1-03
259-060-0070	1-22-03	Amend	3-1-03
259-060-0120	1-22-03	Amend	3-1-03
259-060-0130	1-22-03	Amend	3-1-03
259-060-0300	1-22-03	Amend	3-1-03
259-060-0450	1-22-03	Amend	3-1-03
274-020-0340	4-7-03	Amend(T)	5-1-03
274-020-0341	1-21-03	Amend(T)	3-1-03
274-020-0341	3-24-03	Amend	5-1-03
274-020-0341(T)	1-21-03	Suspend	3-1-03
274-020-0341(T)	3-24-03	Repeal	5-1-03
274-020-0445	4-7-03	Amend(T)	5-1-03
274-028-0020	4-7-03	Amend(T)	5-1-03
274-040-0030	1-1-03	Amend(T)	2-1-03
274-045-0060	4-7-03	Amend(T)	5-1-03
274-045-0441	4-7-03	Amend(T)	5-1-03
291-019-0010	3-1-03	Am. & Ren.	3-1-03
291-024-0005	2-5-03	Amend	3-1-03
291-024-0010	2-5-03	Amend	3-1-03
291-024-0015	2-5-03	Amend	3-1-03
291-024-0016	2-5-03	Amend	3-1-03
291-024-0017	2-5-03	Repeal	3-1-03
291-024-0020	2-5-03	Amend	3-1-03
291-024-0025	2-5-03	Amend	3-1-03
291-024-0055	2-5-03	Amend	3-1-03
291-024-0060	2-5-03	Amend	3-1-03
291-024-0070	2-5-03	Am. & Ren.	3-1-03
291-024-0080	2-5-03	Amend	3-1-03
291-025-0065	2-5-03	Am. & Ren.	3-1-03
291-031-0085	2-21-03	Adopt(T)	4-1-03
291-031-0095	2-21-03	Adopt(T)	4-1-03
291-031-0100	2-21-03	Adopt(T)	4-1-03
291-031-0110	2-21-03	Adopt(T)	4-1-03
291-031-0120	2-21-03	Adopt(T)	4-1-03
291-031-0130	2-21-03	Adopt(T)	4-1-03
291-031-0140	2-21-03	Adopt(T)	4-1-03
291-062-0030	2-21-03	Amend(T)	4-1-03
291-077-0030	2-28-03	Amend(T)	4-1-03
291-109-0005	3-1-03	Repeal	3-1-03
291-109-0015	3-1-03	Repeal	3-1-03
291-109-0020	3-1-03	Repeal	3-1-03
291-109-0030	3-1-03	Repeal	3-1-03
291-109-0040	3-1-03	Repeal	3-1-03
291-109-0050	3-1-03	Repeal	3-1-03
291-109-0060	3-1-03	Repeal	3-1-03
291-109-0100	3-1-03	Adopt	3-1-03
291-109-0120	3-1-03	Adopt	3-1-03
291-109-0130	3-1-03	Adopt	3-1-03
291-109-0140	3-1-03	Adopt	3-1-03
291-113-0005	4-2-03	Amend	5-1-03
291-113-0010	4-2-03	Amend	5-1-03
291-113-0015	4-2-03	Amend	5-1-03
291-113-0020	4-2-03	Repeal	5-1-03
291-113-0021	4-2-03	Adopt	5-1-03
291-113-0025	4-2-03	Repeal	5-1-03
291-113-0030	4-2-03	Amend	5-1-03
291-113-0035	4-2-03	Amend	5-1-03
291-203-0010	2-7-03	Adopt(T)	3-1-03
291-203-0020	2-7-03	Adopt(T)	3-1-03
291-203-0030	2-7-03	Adopt(T)	3-1-03
309-018-0120	3-10-03	Amend(T)	3-1-03
309-018-0130	3-10-03	Amend(T)	3-1-03
309-018-0180	3-10-03	Amend(T)	3-1-03
330-130-0030	1-10-03	Amend	2-1-03
330-130-0040	1-10-03	Amend	2-1-03
330-130-0050	1-10-03	Amend	2-1-03
330-130-0060	1-10-03	Amend	2-1-03
330-130-0080	1-10-03	Amend	2-1-03
331-400-0010	2-1-03	Amend	3-1-03
331-405-0020	2-1-03	Amend	3-1-03
331-410-0000	2-1-03	Amend	3-1-03
331-420-0000	2-1-03	Amend	3-1-03
331-420-0010	2-1-03	Amend	3-1-03
331-420-0020	2-1-03	Amend	3-1-03
331-705-0060	1-1-03	Amend	2-1-03
333-011-0047	2-20-03	Amend(T)	4-1-03
333-050-0010	12-13-02	Amend	1-1-03
333-050-0020	12-13-02	Amend	1-1-03
333-050-0030	12-13-02	Amend	1-1-03
333-050-0040	12-13-02	Amend	1-1-03
333-050-0050	12-13-02	Amend	1-1-03

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333-050-0080	12-13-02	Amend	1-1-03
333-050-0090	12-13-02	Amend	1-1-03
333-050-0100	12-13-02	Amend	1-1-03
333-050-0130	12-13-02	Amend	1-1-03
333-050-0140	12-13-02	Amend	1-1-03
333-054-0000	12-24-02	Amend	2-1-03
333-054-0010	12-24-02	Amend	2-1-03
333-054-0020	12-24-02	Amend	2-1-03
333-054-0030	12-24-02	Amend	2-1-03
333-054-0040	12-24-02	Amend	2-1-03
333-054-0050	12-24-02	Amend	2-1-03
333-054-0060	12-24-02	Amend	2-1-03
333-054-0070	12-24-02	Amend	2-1-03
333-054-0090	12-24-02	Repeal	2-1-03
333-061-0250	3-28-03	Amend	5-1-03
333-061-0260	3-28-03	Amend	5-1-03
333-100-0001	3-27-03	Amend	5-1-03
333-100-0005	3-27-03	Amend	5-1-03
333-100-0057	3-27-03	Adopt	5-1-03
333-100-0060	3-27-03	Amend	5-1-03
333-100-0065	3-27-03	Amend	5-1-03
333-100-0070	3-27-03	Amend	5-1-03
333-100-0080	3-27-03	Adopt	5-1-03
333-101-0001	3-27-03	Amend	5-1-03
333-101-0003	3-27-03	Adopt	5-1-03
333-101-0010	3-27-03	Amend	5-1-03
333-102-0001	3-27-03	Amend	5-1-03
333-102-0005	3-27-03	Amend	5-1-03
333-102-0010	3-27-03	Amend	5-1-03
333-102-0015	3-27-03	Amend	5-1-03
333-102-0020	3-27-03	Amend	5-1-03
333-102-0025	3-27-03	Amend	5-1-03
333-102-0030	3-27-03	Amend	5-1-03
333-102-0035	3-27-03	Amend	5-1-03
333-102-0040	3-27-03	Adopt	5-1-03
333-102-0075	3-27-03	Amend	5-1-03
333-102-0101	3-27-03	Amend	5-1-03
333-102-0103	3-27-03	Amend	5-1-03
333-102-0105	3-27-03	Amend	5-1-03
333-102-0110	3-27-03	Amend	5-1-03
333-102-0120	3-27-03	Amend	5-1-03
333-102-0125	3-27-03	Amend	5-1-03
333-102-0130	3-27-03	Amend	5-1-03
333-102-0135	3-27-03	Amend	5-1-03
333-102-0190	3-27-03	Adopt	5-1-03
333-102-0200	3-27-03	Amend	5-1-03
333-102-0203	3-27-03	Amend	5-1-03
333-102-0225	3-27-03	Repeal	5-1-03
333-102-0235	3-27-03	Amend	5-1-03
333-102-0240	3-27-03	Repeal	5-1-03
333-102-0245	3-27-03	Amend	5-1-03
333-102-0247	3-27-03	Adopt	5-1-03
333-102-0250	3-27-03	Amend	5-1-03
333-102-0255	3-27-03	Amend	5-1-03
333-102-0260	3-27-03	Amend	5-1-03
333-102-0265	3-27-03	Amend	5-1-03
333-102-0270	3-27-03	Amend	5-1-03
333-102-0275	3-27-03	Amend	5-1-03
333-102-0285	3-27-03	Amend	5-1-03
333-102-0287	3-27-03	Repeal	5-1-03
333-102-0290	3-27-03	Amend	5-1-03
333-102-0293	3-27-03	Amend	5-1-03
333-102-0295	3-27-03	Repeal	5-1-03
333-102-0300	3-27-03	Amend	5-1-03
333-102-0305	3-27-03	Amend	5-1-03
333-102-0310	3-27-03	Amend	5-1-03
333-102-0315	3-27-03	Amend	5-1-03
333-102-0327	3-27-03	Amend	5-1-03
333-102-0330	3-27-03	Amend	5-1-03
333-102-0335	3-27-03	Amend	5-1-03
333-102-0340	3-27-03	Amend	5-1-03
333-102-0350	3-27-03	Adopt	5-1-03
333-102-0355	3-27-03	Adopt	5-1-03
333-102-0360	3-27-03	Adopt	5-1-03
333-102-0365	3-27-03	Adopt	5-1-03
333-103-0015	3-27-03	Amend	5-1-03
333-105-0001	3-27-03	Amend	5-1-03
333-105-0003	3-27-03	Adopt	5-1-03
333-105-0005	3-27-03	Amend	5-1-03
333-105-0050	3-27-03	Adopt	5-1-03
333-105-0075	3-27-03	Adopt	5-1-03
333-105-0101	3-27-03	Repeal	5-1-03
333-105-0105	3-27-03	Repeal	5-1-03
333-105-0110	3-27-03	Repeal	5-1-03
333-105-0115	3-27-03	Repeal	5-1-03
333-105-0120	3-27-03	Repeal	5-1-03
333-105-0125	3-27-03	Repeal	5-1-03
333-105-0130	3-27-03	Repeal	5-1-03
333-105-0135	3-27-03	Repeal	5-1-03
333-105-0140	3-27-03	Repeal	5-1-03
333-105-0201	3-27-03	Repeal	5-1-03
333-105-0202	3-27-03	Repeal	5-1-03
333-105-0205	3-27-03	Repeal	5-1-03
333-105-0210	3-27-03	Repeal	5-1-03
333-105-0301	3-27-03	Repeal	5-1-03
333-105-0305	3-27-03	Repeal	5-1-03
333-105-0310	3-27-03	Repeal	5-1-03
333-105-0315	3-27-03	Repeal	5-1-03
333-105-0320	3-27-03	Repeal	5-1-03
333-105-0325	3-27-03	Repeal	5-1-03
333-105-0330	3-27-03	Repeal	5-1-03
333-105-0335	3-27-03	Repeal	5-1-03
333-105-0420	3-27-03	Adopt	5-1-03
333-105-0430	3-27-03	Adopt	5-1-03
333-105-0440	3-27-03	Adopt	5-1-03
333-105-0450	3-27-03	Adopt	5-1-03
333-105-0460	3-27-03	Adopt	5-1-03
333-105-0470	3-27-03	Adopt	5-1-03
333-105-0480	3-27-03	Adopt	5-1-03
333-105-0490	3-27-03	Adopt	5-1-03
333-105-0500	3-27-03	Adopt	5-1-03

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333-105-0520	3-27-03	Adopt	5-1-03
333-105-0530	3-27-03	Adopt	5-1-03
333-105-0540	3-27-03	Adopt	5-1-03
333-105-0550	3-27-03	Adopt	5-1-03
333-105-0560	3-27-03	Adopt	5-1-03
333-105-0570	3-27-03	Adopt	5-1-03
333-105-0580	3-27-03	Adopt	5-1-03
333-105-0590	3-27-03	Adopt	5-1-03
333-105-0600	3-27-03	Adopt	5-1-03
333-105-0610	3-27-03	Adopt	5-1-03
333-105-0620	3-27-03	Adopt	5-1-03
333-105-0630	3-27-03	Adopt	5-1-03
333-105-0640	3-27-03	Adopt	5-1-03
333-105-0650	3-27-03	Adopt	5-1-03
333-105-0660	3-27-03	Adopt	5-1-03
333-105-0670	3-27-03	Adopt	5-1-03
333-105-0680	3-27-03	Adopt	5-1-03
333-105-0690	3-27-03	Adopt	5-1-03
333-105-0700	3-27-03	Adopt	5-1-03
333-105-0710	3-27-03	Adopt	5-1-03
333-105-0720	3-27-03	Adopt	5-1-03
333-105-0730	3-27-03	Adopt	5-1-03
333-105-0740	3-27-03	Adopt	5-1-03
333-105-0750	3-27-03	Adopt	5-1-03
333-105-0760	3-27-03	Adopt	5-1-03
333-106-0005	3-27-03	Amend	5-1-03
333-106-0035	3-27-03	Amend	5-1-03
333-106-0045	3-27-03	Amend	5-1-03
333-106-0055	3-27-03	Amend	5-1-03
333-106-0101	3-27-03	Amend	5-1-03
333-106-0105	3-27-03	Amend	5-1-03
333-106-0210	3-27-03	Amend	5-1-03
333-106-0220	3-27-03	Amend	5-1-03
333-106-0325	3-27-03	Amend	5-1-03
333-106-0575	3-27-03	Amend	5-1-03
333-106-0700	3-27-03	Amend	5-1-03
333-106-0710	3-27-03	Amend	5-1-03
333-106-0720	3-27-03	Amend	5-1-03
333-106-0730	3-27-03	Amend	5-1-03
333-106-0750	3-27-03	Adopt	5-1-03
333-111-0010	3-27-03	Amend	5-1-03
333-116-0010	3-27-03	Amend	5-1-03
333-116-0020	3-27-03	Amend	5-1-03
333-116-0025	3-27-03	Adopt	5-1-03
333-116-0035	3-27-03	Adopt	5-1-03
333-116-0040	3-27-03	Amend	5-1-03
333-116-0050	3-27-03	Amend	5-1-03
333-116-0055	3-27-03	Adopt	5-1-03
333-116-0057	3-27-03	Adopt	5-1-03
333-116-0059	3-27-03	Adopt	5-1-03
333-116-0070	3-27-03	Amend	5-1-03
333-116-0080	3-27-03	Amend	5-1-03
333-116-0090	3-27-03	Amend	5-1-03
333-116-0100	3-27-03	Amend	5-1-03
333-116-0105	3-27-03	Adopt	5-1-03
333-116-0107	3-27-03	Adopt	5-1-03
333-116-0120	3-27-03	Amend	5-1-03
333-116-0125	3-27-03	Amend	5-1-03
333-116-0140	3-27-03	Amend	5-1-03
333-116-0150	3-27-03	Amend	5-1-03
333-116-0160	3-27-03	Amend	5-1-03
333-116-0165	3-27-03	Adopt	5-1-03
333-116-0170	3-27-03	Amend	5-1-03
333-116-0180	3-27-03	Amend	5-1-03
333-116-0190	3-27-03	Amend	5-1-03
333-116-0200	3-27-03	Amend	5-1-03
333-116-0250	3-27-03	Amend	5-1-03
333-116-0260	3-27-03	Amend	5-1-03
333-116-0265	3-27-03	Adopt	5-1-03
333-116-0290	3-27-03	Amend	5-1-03
333-116-0300	3-27-03	Amend	5-1-03
333-116-0310	3-27-03	Amend	5-1-03
333-116-0320	3-27-03	Amend	5-1-03
333-116-0330	3-27-03	Amend	5-1-03
333-116-0340	3-27-03	Amend	5-1-03
333-116-0350	3-27-03	Amend	5-1-03
333-116-0360	3-27-03	Amend	5-1-03
333-116-0370	3-27-03	Amend	5-1-03
333-116-0380	3-27-03	Amend	5-1-03
333-116-0390	3-27-03	Amend	5-1-03
333-116-0410	3-27-03	Amend	5-1-03
333-116-0420	3-27-03	Amend	5-1-03
333-116-0430	3-27-03	Amend	5-1-03
333-116-0440	3-27-03	Amend	5-1-03
333-116-0450	3-27-03	Amend	5-1-03
333-116-0460	3-27-03	Amend	5-1-03
333-116-0470	3-27-03	Amend	5-1-03
333-116-0480	3-27-03	Amend	5-1-03
333-116-0490	3-27-03	Amend	5-1-03
333-116-0495	3-27-03	Adopt	5-1-03
333-116-0510	3-27-03	Repeal	5-1-03
333-116-0515	3-27-03	Adopt	5-1-03
333-116-0525	3-27-03	Adopt	5-1-03
333-116-0530	3-27-03	Amend	5-1-03
333-116-0540	3-27-03	Amend	5-1-03
333-116-0560	3-27-03	Amend	5-1-03
333-116-0570	3-27-03	Amend	5-1-03
333-116-0573	3-27-03	Adopt	5-1-03
333-116-0577	3-27-03	Adopt	5-1-03
333-116-0580	3-27-03	Amend	5-1-03
333-116-0583	3-27-03	Adopt	5-1-03
333-116-0585	3-27-03	Adopt	5-1-03
333-116-0587	3-27-03	Adopt	5-1-03
333-116-0590	3-27-03	Amend	5-1-03
333-116-0600	3-27-03	Amend	5-1-03
333-116-0605	3-27-03	Adopt	5-1-03
333-116-0610	3-27-03	Amend	5-1-03
333-116-0640	3-27-03	Amend	5-1-03
333-116-0660	3-27-03	Amend	5-1-03
333-116-0670	3-27-03	Amend	5-1-03
333-116-0680	3-27-03	Amend	5-1-03

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333-116-0730	3-27-03	Amend	5-1-03
333-116-0830	3-27-03	Amend	5-1-03
333-116-0905	3-27-03	Adopt	5-1-03
333-116-0910	3-27-03	Adopt	5-1-03
333-116-0915	3-27-03	Adopt	5-1-03
333-118-0020	3-27-03	Amend	5-1-03
333-118-0040	3-27-03	Amend	5-1-03
333-118-0050	3-27-03	Amend	5-1-03
333-118-0060	3-27-03	Amend	5-1-03
333-118-0070	3-27-03	Amend	5-1-03
333-118-0080	3-27-03	Amend	5-1-03
333-118-0090	3-27-03	Amend	5-1-03
333-118-0100	3-27-03	Amend	5-1-03
333-118-0110	3-27-03	Amend	5-1-03
333-118-0120	3-27-03	Amend	5-1-03
333-118-0130	3-27-03	Amend	5-1-03
333-118-0140	3-27-03	Amend	5-1-03
333-118-0150	3-27-03	Amend	5-1-03
333-118-0160	3-27-03	Amend	5-1-03
333-118-0170	3-27-03	Amend	5-1-03
333-118-0180	3-27-03	Amend	5-1-03
333-118-0190	3-27-03	Amend	5-1-03
333-118-0200	3-27-03	Amend	5-1-03
333-118-0800	3-27-03	Adopt	5-1-03
333-119-0030	3-27-03	Amend	5-1-03
333-119-0040	3-27-03	Amend	5-1-03
333-119-0080	3-27-03	Amend	5-1-03
333-119-0090	3-27-03	Amend	5-1-03
333-119-0100	3-27-03	Amend	5-1-03
333-119-0120	3-27-03	Amend	5-1-03
333-120-0015	3-27-03	Adopt	5-1-03
333-120-0017	3-27-03	Adopt	5-1-03
333-120-0100	3-27-03	Amend	5-1-03
333-120-0110	3-27-03	Amend	5-1-03
333-120-0130	3-27-03	Amend	5-1-03
333-120-0170	3-27-03	Amend	5-1-03
333-120-0180	3-27-03	Amend	5-1-03
333-120-0190	3-27-03	Amend	5-1-03
333-120-0200	3-27-03	Amend	5-1-03
333-120-0210	3-27-03	Amend	5-1-03
333-120-0215	3-27-03	Adopt	5-1-03
333-120-0220	3-27-03	Amend	5-1-03
333-120-0230	3-27-03	Amend	5-1-03
333-120-0240	3-27-03	Amend	5-1-03
333-120-0250	3-27-03	Amend	5-1-03
333-120-0320	3-27-03	Amend	5-1-03
333-120-0400	3-27-03	Amend	5-1-03
333-120-0420	3-27-03	Amend	5-1-03
333-120-0430	3-27-03	Amend	5-1-03
333-120-0450	3-27-03	Amend	5-1-03
333-120-0460	3-27-03	Amend	5-1-03
333-120-0520	3-27-03	Amend	5-1-03
333-120-0540	3-27-03	Amend	5-1-03
333-120-0550	3-27-03	Amend	5-1-03
333-120-0560	3-27-03	Amend	5-1-03
333-120-0600	3-27-03	Amend	5-1-03
333-120-0610	3-27-03	Amend	5-1-03
333-120-0640	3-27-03	Amend	5-1-03
333-120-0650	3-27-03	Amend	5-1-03
333-120-0660	3-27-03	Amend	5-1-03
333-120-0670	3-27-03	Amend	5-1-03
333-120-0680	3-27-03	Amend	5-1-03
333-120-0700	3-27-03	Amend	5-1-03
333-120-0710	3-27-03	Amend	5-1-03
333-120-0720	3-27-03	Amend	5-1-03
333-157-0045	1-1-03	Amend	1-1-03
333-162-1005	1-1-03	Adopt	1-1-03
333-500-0010	12-10-02	Amend	1-1-03
333-500-0050	12-10-02	Amend	1-1-03
333-500-0056	12-10-02	Adopt	1-1-03
333-500-0057	12-10-02	Adopt	1-1-03
333-505-0005	12-10-02	Amend	1-1-03
333-510-0045	12-10-02	Amend	1-1-03
333-515-0060	12-10-02	Amend	1-1-03
333-535-0040	2-20-03	Repeal	4-1-03
333-535-0041	2-20-03	Adopt	4-1-03
333-536-0000	2-1-03	Adopt	1-1-03
333-536-0005	2-1-03	Adopt	1-1-03
333-536-0010	2-1-03	Adopt	1-1-03
333-536-0015	2-1-03	Adopt	1-1-03
333-536-0020	2-1-03	Adopt	1-1-03
333-536-0025	2-1-03	Adopt	1-1-03
333-536-0030	2-1-03	Adopt	1-1-03
333-536-0035	2-1-03	Adopt	1-1-03
333-536-0040	2-1-03	Adopt	1-1-03
333-536-0045	2-1-03	Adopt	1-1-03
333-536-0050	2-1-03	Adopt	1-1-03
333-536-0055	2-1-03	Adopt	1-1-03
333-536-0060	2-1-03	Adopt	1-1-03
333-536-0065	2-1-03	Adopt	1-1-03
333-536-0070	2-1-03	Adopt	1-1-03
333-536-0075	2-1-03	Adopt	1-1-03
333-536-0080	2-1-03	Adopt	1-1-03
333-536-0085	2-1-03	Adopt	1-1-03
333-536-0090	2-1-03	Adopt	1-1-03
333-536-0095	2-1-03	Adopt	1-1-03
334-001-0060	1-24-03	Amend	3-1-03
334-010-0005	1-24-03	Amend	3-1-03
334-010-0010	1-24-03	Amend	3-1-03
334-010-0015	1-24-03	Amend	3-1-03
334-010-0016	1-24-03	Amend	3-1-03
334-010-0017	1-24-03	Amend	3-1-03
334-010-0025	1-24-03	Amend	3-1-03
334-010-0033	1-24-03	Amend	3-1-03
334-010-0050	1-24-03	Amend	3-1-03
337-010-0030	11-18-02	Amend	1-1-03
337-010-0060	11-18-02	Amend	1-1-03
337-021-0040	11-18-02	Amend	1-1-03
337-021-0070	11-18-02	Adopt	1-1-03
337-021-0080	11-18-02	Adopt	1-1-03
339-020-0020	3-4-03	Amend	4-1-03

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340-012-0049	1-31-03	Amend	3-1-03
340-012-0067	2-14-03	Amend	3-1-03
340-012-0069	1-31-03	Repeal	3-1-03
340-012-0081	1-31-03	Adopt	3-1-03
340-012-0082	1-31-03	Adopt	3-1-03
340-012-0083	1-31-03	Adopt	3-1-03
340-012-0090	1-31-03	Amend	3-1-03
340-042-0025	12-20-02	Adopt	2-1-03
340-042-0030	12-20-02	Adopt	2-1-03
340-042-0040	12-20-02	Adopt	2-1-03
340-042-0050	12-20-02	Adopt	2-1-03
340-042-0060	12-20-02	Adopt	2-1-03
340-042-0070	12-20-02	Adopt	2-1-03
340-042-0080	12-20-02	Adopt	2-1-03
340-047-0005	1-31-03	Repeal	3-1-03
340-047-0010	1-31-03	Repeal	3-1-03
340-047-0015	1-31-03	Repeal	3-1-03
340-047-0020	1-31-03	Repeal	3-1-03
340-047-0025	1-31-03	Repeal	3-1-03
340-047-0035	1-31-03	Repeal	3-1-03
340-047-0040	1-31-03	Repeal	3-1-03
340-047-0100	1-31-03	Repeal	3-1-03
340-047-0110	1-31-03	Repeal	3-1-03
340-047-0120	1-31-03	Repeal	3-1-03
340-047-0130	1-31-03	Repeal	3-1-03
340-047-0140	1-31-03	Repeal	3-1-03
340-047-0150	1-31-03	Repeal	3-1-03
340-047-0160	1-31-03	Repeal	3-1-03
340-047-0170	1-31-03	Repeal	3-1-03
340-047-0180	1-31-03	Repeal	3-1-03
340-047-0190	1-31-03	Repeal	3-1-03
340-047-0200	1-31-03	Repeal	3-1-03
340-047-0210	1-31-03	Repeal	3-1-03
340-047-0220	1-31-03	Repeal	3-1-03
340-047-0230	1-31-03	Repeal	3-1-03
340-047-0240	1-31-03	Repeal	3-1-03
340-108-0001	1-31-03	Repeal	3-1-03
340-108-0002	1-31-03	Repeal	3-1-03
340-108-0010	1-31-03	Repeal	3-1-03
340-108-0020	1-31-03	Repeal	3-1-03
340-108-0030	1-31-03	Repeal	3-1-03
340-108-0040	1-31-03	Repeal	3-1-03
340-108-0050	1-31-03	Repeal	3-1-03
340-108-0070	1-31-03	Repeal	3-1-03
340-108-0080	1-31-03	Repeal	3-1-03
340-122-0210	2-14-03	Amend	3-1-03
340-141-0001	1-31-03	Adopt	3-1-03
340-141-0005	1-31-03	Adopt	3-1-03
340-141-0010	1-31-03	Adopt	3-1-03
340-141-0100	1-31-03	Adopt	3-1-03
340-141-0130	1-31-03	Adopt	3-1-03
340-141-0140	1-31-03	Adopt	3-1-03
340-141-0150	1-31-03	Adopt	3-1-03
340-141-0160	1-31-03	Adopt	3-1-03
340-141-0170	1-31-03	Adopt	3-1-03
340-141-0180	1-31-03	Adopt	3-1-03
340-141-0190	1-31-03	Adopt	3-1-03
340-141-0200	1-31-03	Adopt	3-1-03
340-141-0210	1-31-03	Adopt	3-1-03
340-141-0220	1-31-03	Adopt	3-1-03
340-141-0230	1-31-03	Adopt	3-1-03
340-141-0240	1-31-03	Adopt	3-1-03
340-142-0001	1-31-03	Adopt	3-1-03
340-142-0005	1-31-03	Adopt	3-1-03
340-142-0030	1-31-03	Adopt	3-1-03
340-142-0040	1-31-03	Adopt	3-1-03
340-142-0050	1-31-03	Adopt	3-1-03
340-142-0060	1-31-03	Adopt	3-1-03
340-142-0070	1-31-03	Adopt	3-1-03
340-142-0080	1-31-03	Adopt	3-1-03
340-142-0090	1-31-03	Adopt	3-1-03
340-142-0100	1-31-03	Adopt	3-1-03
340-142-0120	1-31-03	Adopt	3-1-03
340-142-0130	1-31-03	Adopt	3-1-03
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340-150-0003	2-14-03	Repeal	3-1-03
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340-150-0008	2-14-03	Adopt	3-1-03
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340-150-0015	2-14-03	Repeal	3-1-03
340-150-0016	2-14-03	Repeal	3-1-03
340-150-0019	2-14-03	Repeal	3-1-03
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340-150-0021	2-14-03	Amend	3-1-03
340-150-0030	2-14-03	Repeal	3-1-03
340-150-0040	2-14-03	Repeal	3-1-03
340-150-0050	2-14-03	Repeal	3-1-03
340-150-0052	2-14-03	Adopt	3-1-03
340-150-0060	2-14-03	Repeal	3-1-03
340-150-0070	2-14-03	Repeal	3-1-03
340-150-0080	2-14-03	Amend	3-1-03
340-150-0090	2-14-03	Repeal	3-1-03
340-150-0100	2-14-03	Repeal	3-1-03
340-150-0102	2-14-03	Adopt	3-1-03
340-150-0110	2-14-03	Amend	3-1-03
340-150-0112	2-14-03	Repeal	3-1-03
340-150-0115	2-14-03	Am. & Ren.	3-1-03
340-150-0125	2-14-03	Am. & Ren.	3-1-03
340-150-0130	2-14-03	Repeal	3-1-03
340-150-0135	2-14-03	Adopt	3-1-03
340-150-0140	2-14-03	Amend	3-1-03
340-150-0150	2-14-03	Amend	3-1-03
340-150-0152	2-14-03	Adopt	3-1-03
340-150-0156	2-14-03	Adopt	3-1-03
340-150-0160	2-14-03	Amend	3-1-03
340-150-0163	2-14-03	Amend	3-1-03
340-150-0166	2-14-03	Amend	3-1-03
340-150-0167	2-14-03	Adopt	3-1-03
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340-150-0180	2-14-03	Adopt	3-1-03

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340-150-0300	2-14-03	Adopt	3-1-03
340-150-0302	2-14-03	Adopt	3-1-03
340-150-0310	2-14-03	Adopt	3-1-03
340-150-0320	2-14-03	Adopt	3-1-03
340-150-0325	2-14-03	Adopt	3-1-03
340-150-0350	2-14-03	Adopt	3-1-03
340-150-0352	2-14-03	Adopt	3-1-03
340-150-0354	2-14-03	Adopt	3-1-03
340-150-0360	2-14-03	Adopt	3-1-03
340-150-0400	2-14-03	Adopt	3-1-03
340-150-0410	2-14-03	Adopt	3-1-03
340-150-0420	2-14-03	Adopt	3-1-03
340-150-0430	2-14-03	Adopt	3-1-03
340-150-0435	2-14-03	Adopt	3-1-03
340-150-0440	2-14-03	Adopt	3-1-03
340-150-0445	2-14-03	Adopt	3-1-03
340-150-0450	2-14-03	Adopt	3-1-03
340-150-0455	2-14-03	Adopt	3-1-03
340-150-0460	2-14-03	Adopt	3-1-03
340-150-0465	2-14-03	Adopt	3-1-03
340-150-0470	2-14-03	Adopt	3-1-03
340-150-0500	2-14-03	Adopt	3-1-03
340-150-0510	2-14-03	Adopt	3-1-03
340-150-0520	2-14-03	Adopt	3-1-03
340-150-0540	2-14-03	Adopt	3-1-03
340-150-0550	2-14-03	Adopt	3-1-03
340-150-0555	2-14-03	Adopt	3-1-03
340-150-0560	2-14-03	Adopt	3-1-03
340-151-0001	2-14-03	Adopt	3-1-03
340-151-0010	2-14-03	Adopt	3-1-03
340-151-0015	2-14-03	Adopt	3-1-03
340-151-0020	2-14-03	Adopt	3-1-03
340-151-0025	2-14-03	Adopt	3-1-03
340-160-0005	2-14-03	Amend	3-1-03
340-160-0010	2-14-03	Amend	3-1-03
340-160-0020	2-14-03	Amend	3-1-03
340-160-0025	2-14-03	Amend	3-1-03
340-160-0030	2-14-03	Amend	3-1-03
340-160-0035	2-14-03	Amend	3-1-03
340-160-0040	2-14-03	Amend	3-1-03
340-160-0054	2-14-03	Amend	3-1-03
340-160-0150	2-14-03	Amend	3-1-03
340-200-0040	2-6-03	Amend	3-1-03
340-230-0010	2-6-03	Amend	3-1-03
340-230-0020	2-6-03	Amend	3-1-03
340-230-0030	2-6-03	Amend	3-1-03
340-230-0120	2-6-03	Amend	3-1-03
340-230-0300	2-6-03	Amend	3-1-03
340-230-0310	2-6-03	Amend	3-1-03
340-230-0320	2-6-03	Amend	3-1-03
340-230-0330	2-6-03	Amend	3-1-03
340-230-0340	2-6-03	Amend	3-1-03
340-230-0350	2-6-03	Amend	3-1-03
340-230-0360	2-6-03	Repeal	3-1-03
340-230-0365	2-6-03	Adopt	3-1-03
340-230-0370	2-6-03	Adopt	3-1-03
340-230-0373	2-6-03	Adopt	3-1-03
340-230-0375	2-6-03	Adopt	3-1-03
340-230-0377	2-6-03	Adopt	3-1-03
340-230-0380	2-6-03	Adopt	3-1-03
340-230-0383	2-6-03	Adopt	3-1-03
340-230-0385	2-6-03	Adopt	3-1-03
340-230-0387	2-6-03	Adopt	3-1-03
340-230-0390	2-6-03	Adopt	3-1-03
340-230-0395	2-6-03	Adopt	3-1-03
340-238-0040	2-6-03	Amend	3-1-03
340-238-0050	2-6-03	Amend	3-1-03
340-238-0060	2-6-03	Amend	3-1-03
340-244-0200	2-6-03	Amend	3-1-03
340-244-0210	2-6-03	Amend	3-1-03
340-244-0220	2-6-03	Amend	3-1-03
340-244-0230	2-6-03	Amend	3-1-03
340-248-0010	12-23-02	Amend	2-1-03
340-248-0100	12-23-02	Amend	2-1-03
340-248-0120	12-23-02	Amend	2-1-03
340-248-0130	12-23-02	Amend	2-1-03
340-248-0140	12-23-02	Amend	2-1-03
340-248-0150	12-23-02	Amend	2-1-03
340-248-0180	12-23-02	Amend	2-1-03
340-248-0205	12-23-02	Amend	2-1-03
340-248-0210	12-23-02	Amend	2-1-03
340-248-0220	12-23-02	Amend	2-1-03
340-248-0240	12-23-02	Amend	2-1-03
340-248-0250	12-23-02	Amend	2-1-03
340-248-0260	12-23-02	Amend	2-1-03
340-248-0270	12-23-02	Amend	2-1-03
340-248-0275	12-23-02	Amend	2-1-03
340-248-0280	12-23-02	Amend	2-1-03
340-248-0290	12-23-02	Amend	2-1-03
345-026-0390	12-3-02	Amend	1-1-03
410-001-0030	11-22-02	Adopt	1-1-03
410-001-0100	3-21-03	Adopt(T)	5-1-03
410-001-0110	3-21-03	Adopt(T)	5-1-03
410-001-0120	3-21-03	Adopt(T)	5-1-03
410-001-0130	3-21-03	Adopt(T)	5-1-03
410-001-0140	3-21-03	Adopt(T)	5-1-03
410-001-0150	3-21-03	Adopt(T)	5-1-03
410-001-0160	3-21-03	Adopt(T)	5-1-03
410-001-0170	3-21-03	Adopt(T)	5-1-03
410-001-0180	3-21-03	Adopt(T)	5-1-03
410-001-0190	3-21-03	Adopt(T)	5-1-03
410-001-0200	3-21-03	Adopt(T)	5-1-03
410-014-0000	4-1-03	Adopt	5-1-03
410-014-0010	4-1-03	Adopt	5-1-03
410-014-0020	4-1-03	Adopt	5-1-03
410-014-0030	4-1-03	Adopt	5-1-03
410-014-0040	4-1-03	Adopt	5-1-03
410-014-0050	4-1-03	Adopt	5-1-03
410-014-0060	4-1-03	Adopt	5-1-03
410-014-0070	4-1-03	Adopt	5-1-03

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410-120-0000	2-1-03	Amend	3-1-03
410-120-1190	2-1-03	Adopt	3-1-03
410-120-1195	4-1-03	Adopt(T)	5-1-03
410-120-1200	2-1-03	Amend	3-1-03
410-120-1200	3-1-03	Amend	4-1-03
410-120-1200	3-14-03	Amend(T)	4-1-03
410-120-1230	1-1-03	Adopt	2-1-03
410-120-1235	2-1-03	Adopt	3-1-03
410-120-1280	1-1-03	Amend	2-1-03
410-120-1280	2-1-03	Amend	3-1-03
410-120-1340	2-1-03	Amend	3-1-03
410-120-1360	4-1-03	Amend	5-1-03
410-120-1520	4-1-03	Amend	5-1-03
410-120-1540	4-1-03	Amend	5-1-03
410-120-1560	4-1-03	Amend	5-1-03
410-120-1570	4-1-03	Adopt	5-1-03
410-120-1580	4-1-03	Amend	5-1-03
410-120-1600	4-1-03	Amend	5-1-03
410-120-1620	4-1-03	Renumber	5-1-03
410-120-1640	4-1-03	Amend	5-1-03
410-120-1660	4-1-03	Amend	5-1-03
410-120-1680	4-1-03	Amend	5-1-03
410-120-1685	4-1-03	Adopt	5-1-03
410-121-0000	2-1-03	Amend	3-1-03
410-121-0030	4-1-03	Amend	5-1-03
410-121-0040	4-1-03	Amend	5-1-03
410-121-0060	4-1-03	Amend	5-1-03
410-121-0140	3-1-03	Amend	4-1-03
410-121-0140	4-1-03	Amend(T)	4-1-03
410-121-0140	4-15-03	Amend(T)	5-1-03
410-121-0140(T)	4-1-03	Suspend	5-1-03
410-121-0140(T)	4-15-03	Suspend	5-1-03
410-121-0146	1-1-03	Amend	2-1-03
410-121-0153	2-1-03	Adopt	3-1-03
410-121-0153	3-1-03	Repeal	4-1-03
410-121-0154	1-1-03	Adopt	2-1-03
410-121-0157	2-14-03	Amend(T)	3-1-03
410-121-0157(T)	2-14-03	Suspend	3-1-03
410-121-0160	4-15-03	Amend(T)	5-1-03
410-121-0190	4-1-03	Amend	5-1-03
410-121-0200	4-1-03	Amend	5-1-03
410-121-0300	12-1-02	Amend(T)	1-1-03
410-121-0300	2-28-03	Amend	4-1-03
410-121-0300	3-1-03	Amend(T)	4-1-03
410-121-0300(T)	12-1-02	Suspend	1-1-03
410-121-0300(T)	2-28-03	Repeal	4-1-03
410-121-0320	2-14-03	Amend(T)	3-1-03
410-121-0320(T)	2-14-03	Suspend	3-1-03
410-122-0020	12-24-02	Amend(T)	2-1-03
410-122-0180	4-1-03	Amend	5-1-03
410-122-0190	4-1-03	Amend	5-1-03
410-122-0200	4-1-03	Amend	5-1-03
410-122-0202	4-1-03	Amend	5-1-03
410-122-0203	4-1-03	Amend	5-1-03
410-122-0205	4-1-03	Amend	5-1-03
410-122-0207	4-1-03	Amend	5-1-03
410-122-0208	4-1-03	Amend	5-1-03
410-122-0209	4-1-03	Amend	5-1-03
410-122-0210	4-1-03	Amend	5-1-03
410-122-0240	4-1-03	Amend	5-1-03
410-122-0300	4-1-03	Amend	5-1-03
410-122-0320	4-1-03	Amend	5-1-03
410-122-0340	4-1-03	Amend	5-1-03
410-122-0360	4-1-03	Amend	5-1-03
410-122-0365	4-1-03	Amend	5-1-03
410-122-0370	4-1-03	Repeal	5-1-03
410-122-0375	4-1-03	Amend	5-1-03
410-122-0420	4-1-03	Amend	5-1-03
410-122-0460	4-1-03	Repeal	5-1-03
410-122-0470	4-1-03	Amend	5-1-03
410-122-0500	4-1-03	Amend	5-1-03
410-122-0510	4-1-03	Amend	5-1-03
410-122-0525	4-1-03	Amend	5-1-03
410-122-0540	4-1-03	Amend	5-1-03
410-122-0560	4-1-03	Amend	5-1-03
410-122-0580	4-1-03	Amend	5-1-03
410-122-0600	4-1-03	Amend	5-1-03
410-122-0620	4-1-03	Amend	5-1-03
410-122-0625	4-1-03	Amend	5-1-03
410-122-0630	4-1-03	Amend	5-1-03
410-122-0660	4-1-03	Amend	5-1-03
410-122-0665	4-1-03	Repeal	5-1-03
410-122-0670	4-1-03	Repeal	5-1-03
410-122-0675	4-1-03	Repeal	5-1-03
410-122-0678	4-1-03	Amend	5-1-03
410-122-0680	4-1-03	Amend	5-1-03
410-122-0701	2-1-03	Adopt	3-1-03
410-122-0701	3-1-03	Repeal	4-1-03
410-122-0720	4-1-03	Adopt	5-1-03
410-123-1085	1-1-03	Adopt	2-1-03
410-123-1085	2-1-03	Amend	3-1-03
410-123-1220	2-1-03	Amend	3-1-03
410-123-1240	1-1-03	Amend	2-1-03
410-123-1260	2-1-03	Amend	3-1-03
410-123-1280	2-1-03	Repeal	3-1-03
410-123-1290	2-1-03	Repeal	3-1-03
410-123-1300	2-1-03	Repeal	3-1-03
410-123-1310	2-1-03	Repeal	3-1-03
410-123-1320	2-1-03	Repeal	3-1-03
410-123-1330	2-1-03	Repeal	3-1-03
410-123-1340	2-1-03	Repeal	3-1-03
410-123-1360	2-1-03	Repeal	3-1-03
410-123-1380	2-1-03	Repeal	3-1-03
410-123-1400	2-1-03	Repeal	3-1-03
410-123-1420	2-1-03	Repeal	3-1-03
410-123-1440	2-1-03	Repeal	3-1-03
410-123-1460	2-1-03	Repeal	3-1-03
410-123-1480	2-1-03	Repeal	3-1-03
410-123-1500	2-1-03	Repeal	3-1-03
410-124-0000	2-1-03	Amend	3-1-03
410-124-0020	2-1-03	Amend	3-1-03
410-124-0040	2-1-03	Amend	3-1-03

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410-124-0140	2-1-03	Amend	3-1-03
410-124-0160	2-1-03	Amend	3-1-03
410-125-0050	1-1-03	Adopt	2-1-03
410-125-0055	2-1-03	Adopt	3-1-03
410-125-0080	4-1-03	Amend	5-1-03
410-125-0141	3-1-03	Amend	4-1-03
410-125-0141	3-10-03	Amend(T)	4-1-03
410-125-0181	3-1-03	Amend	4-1-03
410-125-0195	3-1-03	Amend	4-1-03
410-125-0195	3-10-03	Amend(T)	4-1-03
410-125-0680	1-1-03	Amend	2-1-03
410-125-0700	1-1-03	Amend	2-1-03
410-127-0000	2-1-03	Amend	3-1-03
410-127-0020	2-1-03	Amend	3-1-03
410-127-0050	1-1-03	Adopt	2-1-03
410-127-0055	2-1-03	Adopt	3-1-03
410-127-0080	2-1-03	Amend	3-1-03
410-127-0120	1-1-03	Amend	2-1-03
410-129-0120	1-1-03	Amend	2-1-03
410-129-0140	1-1-03	Amend	2-1-03
410-129-0190	1-1-03	Adopt	2-1-03
410-129-0195	2-1-03	Adopt	3-1-03
410-129-0200	4-1-03	Amend	5-1-03
410-129-0240	4-1-03	Amend	5-1-03
410-129-0260	2-1-03	Amend	3-1-03
410-129-0260	4-1-03	Amend	5-1-03
410-130-0010	1-1-03	Amend	2-1-03
410-130-0040	1-1-03	Amend	2-1-03
410-130-0100	4-1-03	Amend	5-1-03
410-130-0160	4-1-03	Amend	5-1-03
410-130-0180	4-1-03	Amend	5-1-03
410-130-0200	4-1-03	Amend	5-1-03
410-130-0240	4-1-03	Amend	5-1-03
410-130-0250	4-1-03	Amend	5-1-03
410-130-0400	4-1-03	Amend	5-1-03
410-130-0540	4-1-03	Amend	5-1-03
410-130-0562	4-1-03	Amend	5-1-03
410-130-0580	4-1-03	Amend	5-1-03
410-130-0585	4-1-03	Amend	5-1-03
410-130-0660	4-1-03	Amend	5-1-03
410-130-0680	4-1-03	Amend	5-1-03
410-130-0700	4-1-03	Amend	5-1-03
410-130-0760	4-1-03	Amend	5-1-03
410-130-0780	4-1-03	Amend	5-1-03
410-130-0800	4-1-03	Amend	5-1-03
410-130-0940	4-1-03	Amend	5-1-03
410-130-0960	1-1-03	Adopt	2-1-03
410-130-0965	2-1-03	Adopt	3-1-03
410-131-0220	1-1-03	Amend	2-1-03
410-131-0240	1-1-03	Amend	2-1-03
410-131-0270	1-1-03	Adopt	2-1-03
410-131-0275	2-1-03	Adopt	3-1-03
410-132-0050	1-1-03	Adopt	2-1-03
410-132-0055	2-1-03	Adopt	3-1-03
410-132-0140	1-1-03	Amend	2-1-03
410-132-0180	4-1-03	Amend	5-1-03
410-133-0000	4-1-03	Amend	5-1-03
410-133-0020	4-1-03	Repeal	5-1-03
410-133-0040	4-1-03	Amend	5-1-03
410-133-0080	4-1-03	Amend	5-1-03
410-133-0120	4-1-03	Amend	5-1-03
410-133-0200	4-1-03	Amend	5-1-03
410-133-0220	4-1-03	Amend	5-1-03
410-133-0240	4-1-03	Repeal	5-1-03
410-133-0300	4-1-03	Amend	5-1-03
410-133-0320	4-1-03	Amend	5-1-03
410-136-0045	2-1-03	Adopt	3-1-03
410-136-0300	4-1-03	Amend	5-1-03
410-140-0060	1-1-03	Amend	2-1-03
410-140-0110	1-1-03	Adopt	2-1-03
410-140-0115	2-1-03	Adopt	3-1-03
410-141-0000	2-1-03	Amend	3-1-03
410-141-0000	3-1-03	Amend	4-1-03
410-141-0080	2-1-03	Amend	3-1-03
410-141-0080	4-1-03	Amend	5-1-03
410-141-0260	4-1-03	Amend	5-1-03
410-141-0261	4-1-03	Amend	5-1-03
410-141-0264	4-1-03	Amend	5-1-03
410-141-0420	2-1-03	Amend	3-1-03
410-141-0480	1-1-03	Amend	2-1-03
410-141-0500	1-1-03	Amend	2-1-03
410-141-0500	2-1-03	Amend	3-1-03
410-141-0500	4-15-03	Amend	5-1-03
410-141-0520	1-1-03	Amend	2-1-03
410-141-0520	3-1-03	Amend	4-1-03
410-141-0520	4-1-03	Amend	5-1-03
410-141-0520(T)	1-1-03	Repeal	2-1-03
410-142-0080	2-1-03	Amend	3-1-03
410-142-0100	2-1-03	Amend	3-1-03
410-142-0200	2-1-03	Amend	3-1-03
410-142-0240	2-1-03	Amend	3-1-03
410-142-0300	2-28-03	Amend	4-1-03
410-142-0320	2-1-03	Amend	3-1-03
410-146-0075	1-1-03	Adopt	2-1-03
410-146-0075	2-1-03	Amend	3-1-03
410-146-0080	2-1-03	Amend	3-1-03
410-146-0320	1-1-03	Amend	2-1-03
410-147-0085	1-1-03	Adopt	2-1-03
410-147-0085	2-1-03	Amend	3-1-03
410-147-0120	2-1-03	Amend	3-1-03
410-147-0600	1-1-03	Amend	2-1-03
410-148-0020	4-1-03	Amend	5-1-03
410-148-0040	4-1-03	Amend	5-1-03
410-148-0060	4-1-03	Amend	5-1-03
410-148-0090	2-1-03	Adopt	3-1-03
410-148-0095	1-1-03	Adopt	2-1-03
410-148-0100	2-1-03	Amend	3-1-03
410-148-0100	4-1-03	Amend	5-1-03
410-148-0180	1-1-03	Amend	2-1-03
410-148-0200	1-1-03	Amend	2-1-03
410-148-0260	4-1-03	Amend	5-1-03
410-148-0280	4-1-03	Amend	5-1-03

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410-148-0300	4-1-03	Amend	5-1-03
410-149-0000	2-1-03	Adopt	3-1-03
410-149-0020	2-1-03	Adopt	3-1-03
410-149-0040	2-1-03	Adopt	3-1-03
410-149-0060	2-1-03	Adopt	3-1-03
410-149-0080	2-1-03	Adopt	3-1-03
410-150-0040	4-1-03	Amend	5-1-03
410-150-0080	4-1-03	Amend	5-1-03
410-150-0100	4-1-03	Amend	5-1-03
410-150-0120	4-1-03	Amend	5-1-03
410-150-0160	4-1-03	Amend	5-1-03
410-150-0200	4-1-03	Amend	5-1-03
410-150-0220	4-1-03	Amend	5-1-03
410-150-0260	4-1-03	Amend	5-1-03
410-150-0280	4-1-03	Amend	5-1-03
411-015-0000	12-6-02	Amend(T)	1-1-03
411-015-0005	12-6-02	Amend(T)	1-1-03
411-015-0010	12-6-02	Amend(T)	1-1-03
411-015-0015	12-6-02	Amend(T)	1-1-03
411-015-0015	2-1-03	Amend	2-1-03
411-015-0015	2-18-03	Amend(T)	3-1-03
411-015-0015	3-12-03	Amend(T)	4-1-03
411-015-0015	3-20-03	Amend(T)	5-1-03
411-015-0015(T)	2-18-03	Suspend	3-1-03
411-015-0015(T)	3-12-03	Suspend	4-1-03
411-015-0015(T)	3-20-03	Suspend	5-1-03
411-015-0100	12-6-02	Amend(T)	1-1-03
411-015-0100	2-1-03	Amend	2-1-03
411-030-0040	2-1-03	Amend(T)	3-1-03
411-030-0080	2-1-03	Amend(T)	3-1-03
411-300-0100	12-28-02	Adopt	2-1-03
411-300-0110	12-28-02	Adopt	2-1-03
411-300-0120	12-28-02	Adopt	2-1-03
411-300-0130	12-28-02	Adopt	2-1-03
411-300-0140	12-28-02	Adopt	2-1-03
411-300-0150	12-28-02	Adopt	2-1-03
411-300-0160	12-28-02	Adopt	2-1-03
411-300-0170	12-28-02	Adopt	2-1-03
411-300-0180	12-28-02	Adopt	2-1-03
411-300-0190	12-28-02	Adopt	2-1-03
411-300-0200	12-28-02	Adopt	2-1-03
411-300-0210	12-28-02	Adopt	2-1-03
411-300-0220	12-28-02	Adopt	2-1-03
411-310-0010	4-1-03	Adopt	5-1-03
411-310-0020	4-1-03	Adopt	5-1-03
411-310-0030	4-1-03	Adopt	5-1-03
411-310-0040	4-1-03	Adopt	5-1-03
411-310-0050	4-1-03	Adopt	5-1-03
411-310-0060	4-1-03	Adopt	5-1-03
411-310-0070	4-1-03	Adopt	5-1-03
411-315-0010	4-1-03	Adopt	5-1-03
411-315-0020	4-1-03	Adopt	5-1-03
411-315-0030	4-1-03	Adopt	5-1-03
411-315-0040	4-1-03	Adopt	5-1-03
411-315-0050	4-1-03	Adopt	5-1-03
411-315-0060	4-1-03	Adopt	5-1-03
411-315-0070	4-1-03	Adopt	5-1-03
411-315-0080	4-1-03	Adopt	5-1-03
411-315-0090	4-1-03	Adopt	5-1-03
411-315-0100	4-1-03	Adopt	5-1-03
411-999-0010	3-11-03	Adopt(T)	4-1-03
411-999-0011	3-11-03	Adopt(T)	4-1-03
411-999-0012	3-11-03	Adopt(T)	4-1-03
411-999-0013	3-11-03	Adopt(T)	4-1-03
411-999-0014	3-11-03	Adopt(T)	4-1-03
411-999-0015	3-11-03	Adopt(T)	4-1-03
411-999-0020	5-15-03	Adopt(T)	5-1-03
413-010-0700	1-7-03	Amend	2-1-03
413-010-0705	1-7-03	Amend	2-1-03
413-010-0712	1-7-03	Amend	2-1-03
413-010-0714	1-7-03	Amend	2-1-03
413-010-0715	1-7-03	Amend	2-1-03
413-010-0716	1-7-03	Amend	2-1-03
413-010-0717	1-7-03	Amend	2-1-03
413-010-0718	1-7-03	Amend	2-1-03
413-010-0719	1-7-03	Amend	2-1-03
413-010-0720	1-7-03	Amend	2-1-03
413-010-0721	1-7-03	Amend	2-1-03
413-010-0722	1-7-03	Amend	2-1-03
413-010-0723	1-7-03	Amend	2-1-03
413-010-0732	1-7-03	Amend	2-1-03
413-010-0735	1-7-03	Amend	2-1-03
413-010-0738	1-7-03	Amend	2-1-03
413-010-0740	1-7-03	Amend	2-1-03
413-010-0743	1-7-03	Amend	2-1-03
413-010-0745	1-7-03	Amend	2-1-03
413-010-0746	1-7-03	Amend	2-1-03
413-010-0750	1-7-03	Amend	2-1-03
413-020-0000	1-7-03	Amend	2-1-03
413-020-0005	1-7-03	Amend	2-1-03
413-020-0010	1-7-03	Amend	2-1-03
413-020-0020	1-7-03	Amend	2-1-03
413-020-0040	1-7-03	Amend	2-1-03
413-020-0050	1-7-03	Amend	2-1-03
413-020-0100	1-9-03	Amend	2-1-03
413-020-0110	1-9-03	Amend	2-1-03
413-020-0120	1-9-03	Amend	2-1-03
413-020-0130	1-9-03	Amend	2-1-03
413-020-0140	1-9-03	Amend	2-1-03
413-020-0150	1-9-03	Amend	2-1-03
413-020-0160	1-9-03	Amend	2-1-03
413-020-0170	1-9-03	Amend	2-1-03
413-020-0200	1-7-03	Amend	2-1-03
413-020-0210	1-7-03	Amend	2-1-03
413-020-0220	1-7-03	Amend	2-1-03
413-020-0230	1-7-03	Amend	2-1-03
413-020-0240	1-7-03	Amend	2-1-03
413-020-0250	1-7-03	Amend	2-1-03
413-020-0260	1-7-03	Amend	2-1-03
413-020-0270	1-7-03	Amend	2-1-03
413-020-0275	1-23-03	Adopt(T)	3-1-03
413-020-0275	3-19-03	Adopt	5-1-03

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413-020-0280	1-23-03	Adopt(T)	3-1-03
413-020-0285	1-23-03	Adopt(T)	3-1-03
413-020-0285	3-19-03	Adopt	5-1-03
413-020-0335	1-23-03	Amend(T)	3-1-03
413-020-0335(T)	1-23-03	Suspend	3-1-03
413-020-0345	1-23-03	Adopt(T)	3-1-03
413-020-0395	1-23-03	Amend(T)	3-1-03
413-020-0395(T)	1-23-03	Suspend	3-1-03
413-030-0200	1-7-03	Amend	2-1-03
413-030-0205	1-7-03	Adopt	2-1-03
413-030-0210	1-7-03	Amend	2-1-03
413-030-0220	1-7-03	Amend	2-1-03
413-040-0400	1-7-03	Amend	2-1-03
413-040-0410	1-7-03	Amend	2-1-03
413-040-0420	1-7-03	Amend	2-1-03
413-040-0430	1-7-03	Amend	2-1-03
413-040-0440	1-7-03	Amend	2-1-03
413-040-0450	1-7-03	Amend	2-1-03
413-050-0000	1-7-03	Amend	2-1-03
413-050-0005	1-7-03	Adopt	2-1-03
413-050-0010	1-7-03	Amend	2-1-03
413-050-0020	1-7-03	Amend	2-1-03
413-050-0030	1-7-03	Amend	2-1-03
413-050-0040	1-7-03	Amend	2-1-03
413-050-0050	1-7-03	Amend	2-1-03
413-050-0200	12-19-02	Amend(T)	2-1-03
413-050-0210	12-19-02	Amend(T)	2-1-03
413-050-0220	12-19-02	Amend(T)	2-1-03
413-050-0230	12-19-02	Amend(T)	2-1-03
413-050-0240	12-19-02	Amend(T)	2-1-03
413-050-0250	12-19-02	Amend(T)	2-1-03
413-050-0260	12-19-02	Amend(T)	2-1-03
413-050-0261	12-19-02	Adopt(T)	2-1-03
413-050-0270	12-19-02	Amend(T)	2-1-03
413-050-0280	12-19-02	Amend(T)	2-1-03
413-050-0290	12-19-02	Amend(T)	2-1-03
413-050-0300	12-19-02	Amend(T)	2-1-03
413-050-0301	12-19-02	Adopt(T)	2-1-03
413-050-0430	1-9-03	Amend	2-1-03
413-050-0440	1-9-03	Amend	2-1-03
413-050-0500	1-7-03	Amend	2-1-03
413-050-0510	1-7-03	Amend	2-1-03
413-050-0515	1-7-03	Amend	2-1-03
413-050-0530	1-7-03	Amend	2-1-03
413-050-0535	1-7-03	Amend	2-1-03
413-050-0540	1-7-03	Amend	2-1-03
413-050-0545	1-7-03	Amend	2-1-03
413-050-0550	1-7-03	Amend	2-1-03
413-050-0560	1-7-03	Amend	2-1-03
413-050-0565	1-7-03	Amend	2-1-03
413-050-0575	1-7-03	Amend	2-1-03
413-050-0580	1-7-03	Amend	2-1-03
413-050-0585	1-7-03	Amend	2-1-03
413-070-0905	1-9-03	Amend	2-1-03
413-070-0915	1-9-03	Amend	2-1-03
413-070-0920	1-9-03	Amend	2-1-03
413-070-0930	1-9-03	Amend	2-1-03
413-070-0940	1-9-03	Amend	2-1-03
413-070-0945	1-9-03	Amend	2-1-03
413-070-0945	1-23-03	Amend(T)	3-1-03
413-070-0950	1-9-03	Amend	2-1-03
413-070-0980	1-23-03	Adopt(T)	3-1-03
413-070-0981	2-1-03	Adopt(T)	3-1-03
413-080-0000	1-7-03	Amend	2-1-03
413-080-0010	1-7-03	Amend	2-1-03
413-080-0020	1-7-03	Amend	2-1-03
413-080-0030	1-7-03	Amend	2-1-03
413-080-0200	1-9-03	Amend	2-1-03
413-080-0205	1-9-03	Adopt	2-1-03
413-080-0210	1-9-03	Amend	2-1-03
413-080-0240	1-9-03	Amend	2-1-03
413-080-0250	1-9-03	Amend	2-1-03
413-080-0260	1-9-03	Amend	2-1-03
413-080-0270	1-9-03	Amend	2-1-03
413-090-0000	1-7-03	Amend	2-1-03
413-090-0005	1-7-03	Amend	2-1-03
413-090-0010	1-7-03	Amend	2-1-03
413-090-0010	2-1-03	Amend(T)	3-1-03
413-090-0030	1-7-03	Amend	2-1-03
413-090-0040	1-7-03	Amend	2-1-03
413-090-0050	1-7-03	Amend	2-1-03
413-090-0160	2-1-03	Amend(T)	3-1-03
413-090-0300	1-7-03	Amend	2-1-03
413-090-0310	1-7-03	Amend	2-1-03
413-090-0320	1-7-03	Amend	2-1-03
413-090-0330	1-7-03	Amend	2-1-03
413-090-0340	1-7-03	Amend	2-1-03
413-090-0355	1-7-03	Amend	2-1-03
413-090-0365	1-7-03	Amend	2-1-03
413-090-0370	1-7-03	Amend	2-1-03
413-090-0380	1-7-03	Amend	2-1-03
413-090-0400	1-7-03	Amend	2-1-03
413-090-0405	1-7-03	Adopt	2-1-03
413-090-0410	1-7-03	Amend	2-1-03
413-090-0420	1-7-03	Amend	2-1-03
413-090-0430	1-7-03	Amend	2-1-03
413-120-0400	3-13-03	Amend	4-1-03
413-120-0410	3-13-03	Amend	4-1-03
413-120-0420	3-13-03	Amend	4-1-03
413-120-0430	3-13-03	Amend	4-1-03
413-120-0440	3-13-03	Amend	4-1-03
413-120-0450	3-13-03	Amend	4-1-03
413-120-0455	3-13-03	Adopt	4-1-03
413-120-0460	3-13-03	Amend	4-1-03
413-120-0470	3-13-03	Amend	4-1-03
413-130-0120	2-1-03	Amend	3-1-03
413-130-0125	2-1-03	Adopt	3-1-03
413-130-0126	2-1-03	Adopt(T)	3-1-03
413-200-0371	12-19-02	Amend(T)	2-1-03
414-600-0000	11-24-02	Adopt	1-1-03
414-600-0010	11-24-02	Adopt	1-1-03
414-600-0020	11-24-02	Adopt	1-1-03

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414-600-0040	11-24-02	Adopt	1-1-03
414-600-0050	11-24-02	Adopt	1-1-03
414-600-0060	11-24-02	Adopt	1-1-03
414-600-0070	11-24-02	Adopt	1-1-03
414-600-0080	11-24-02	Adopt	1-1-03
414-600-0090	11-24-02	Adopt	1-1-03
414-600-0100	11-24-02	Adopt	1-1-03
416-430-0050	1-16-03	Amend	3-1-03
436-035-0001	2-1-03	Amend	2-1-03
436-035-0003	2-1-03	Amend	2-1-03
436-035-0005	2-1-03	Amend	2-1-03
436-035-0007	2-1-03	Amend	2-1-03
436-035-0010	2-1-03	Amend	2-1-03
436-035-0030	2-1-03	Amend	2-1-03
436-035-0040	2-1-03	Amend	2-1-03
436-035-0050	2-1-03	Amend	2-1-03
436-035-0060	2-1-03	Amend	2-1-03
436-035-0070	2-1-03	Amend	2-1-03
436-035-0075	2-1-03	Amend	2-1-03
436-035-0080	2-1-03	Amend	2-1-03
436-035-0100	2-1-03	Amend	2-1-03
436-035-0110	2-1-03	Amend	2-1-03
436-035-0150	2-1-03	Amend	2-1-03
436-035-0160	2-1-03	Amend	2-1-03
436-035-0170	2-1-03	Amend	2-1-03
436-035-0190	2-1-03	Amend	2-1-03
436-035-0200	2-1-03	Amend	2-1-03
436-035-0220	2-1-03	Amend	2-1-03
436-035-0230	2-1-03	Amend	2-1-03
436-035-0250	2-1-03	Amend	2-1-03
436-035-0260	2-1-03	Amend	2-1-03
436-035-0270	2-1-03	Amend	2-1-03
436-035-0280	2-1-03	Amend	2-1-03
436-035-0300	2-1-03	Amend	2-1-03
436-035-0310	2-1-03	Amend	2-1-03
436-035-0320	2-1-03	Amend	2-1-03
436-035-0330	2-1-03	Amend	2-1-03
436-035-0340	2-1-03	Amend	2-1-03
436-035-0360	2-1-03	Amend	2-1-03
436-035-0370	2-1-03	Amend	2-1-03
436-035-0390	2-1-03	Amend	2-1-03
436-035-0395	2-1-03	Amend	2-1-03
436-035-0420	2-1-03	Amend	2-1-03
436-035-0430	2-1-03	Amend	2-1-03
436-035-0440	2-1-03	Amend	2-1-03
436-035-0500	1-15-03	Amend(T)	2-1-03
436-035-0500	2-1-03	Amend	2-1-03
436-035-0500	4-15-03	Amend(T)	5-1-03
436-050-0060	4-1-03	Amend	5-1-03
436-105-0003	12-11-02	Amend(T)	1-1-03
436-105-0500	12-11-02	Amend(T)	1-1-03
436-105-0510	12-11-02	Amend(T)	1-1-03
436-160-0001	4-1-03	Adopt	5-1-03
436-160-0002	4-1-03	Adopt	5-1-03
436-160-0003	4-1-03	Adopt	5-1-03
436-160-0004	4-1-03	Adopt	5-1-03
436-160-0005	4-1-03	Adopt	5-1-03
436-160-0006	4-1-03	Adopt	5-1-03
436-160-0010	4-1-03	Adopt	5-1-03
436-160-0020	4-1-03	Adopt	5-1-03
436-160-0030	4-1-03	Adopt	5-1-03
436-160-0040	4-1-03	Adopt	5-1-03
436-160-0050	4-1-03	Adopt	5-1-03
436-160-0060	4-1-03	Adopt	5-1-03
436-160-0070	4-1-03	Adopt	5-1-03
436-160-0080	4-1-03	Adopt	5-1-03
436-160-0090	4-1-03	Adopt	5-1-03
436-160-0300	4-1-03	Adopt	5-1-03
436-160-0310	4-1-03	Adopt	5-1-03
436-160-0320	4-1-03	Adopt	5-1-03
436-160-0330	4-1-03	Adopt	5-1-03
436-160-0340	4-1-03	Adopt	5-1-03
436-160-0350	4-1-03	Adopt	5-1-03
436-160-0360	4-1-03	Adopt	5-1-03
437-002-0223	1-30-03	Amend	3-1-03
437-003-0001	1-30-03	Amend	3-1-03
437-003-0001	4-30-03	Amend	3-1-03
437-003-0017	4-30-03	Adopt	3-1-03
437-003-0420	1-30-03	Amend	3-1-03
437-003-0706	4-30-03	Adopt	3-1-03
438-005-0011	5-1-03	Amend	4-1-03
438-005-0015	5-1-03	Amend	4-1-03
438-005-0016	5-1-03	Repeal	4-1-03
438-005-0040	5-1-03	Amend	4-1-03
438-006-0031	5-1-03	Amend	4-1-03
438-006-0036	5-1-03	Amend	4-1-03
438-006-0075	5-1-03	Amend	4-1-03
438-006-0081	5-1-03	Amend	4-1-03
438-006-0091	5-1-03	Amend	4-1-03
438-006-0095	5-1-03	Amend	4-1-03
438-006-0099	5-1-03	Adopt	4-1-03
438-007-0015	5-1-03	Amend	4-1-03
438-007-0018	5-1-03	Amend	4-1-03
438-007-0020	5-1-03	Amend	4-1-03
438-007-0024	5-1-03	Adopt	4-1-03
438-007-0027	5-1-03	Adopt	4-1-03
438-022-0005	5-1-03	Adopt	4-1-03
438-022-0010	5-1-03	Adopt	4-1-03
442-004-0010	12-6-02	Amend(T)	1-1-03
459-009-0350	1-15-03	Adopt	2-1-03
459-035-0000	11-18-02	Amend	1-1-03
459-035-0001	11-18-02	Amend	1-1-03
459-035-0010	11-18-02	Amend	1-1-03
459-035-0020	11-18-02	Amend	1-1-03
459-035-0030	11-18-02	Amend	1-1-03
459-035-0040	11-18-02	Amend	1-1-03
459-035-0050	11-18-02	Amend	1-1-03
459-035-0070	11-18-02	Amend	1-1-03
459-035-0080	11-18-02	Amend	1-1-03
459-035-0090	11-18-02	Amend	1-1-03
459-035-0200	11-18-02	Amend	1-1-03

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459-035-0220	11-18-02	Adopt	1-1-03
461-006-0452	1-1-03	Amend	2-1-03
461-025-0310	1-1-03	Amend(T)	2-1-03
461-025-0315	1-1-03	Amend	2-1-03
461-025-0315	1-1-03	Amend(T)	2-1-03
461-101-0010	2-1-03	Amend	3-1-03
461-101-0010	4-1-03	Amend	5-1-03
461-110-0110	2-1-03	Amend	3-1-03
461-110-0115	1-1-03	Amend	2-1-03
461-110-0750	2-1-03	Amend	3-1-03
461-115-0530	2-1-03	Amend	3-1-03
461-115-0530	3-1-03	Amend	4-1-03
461-115-0651	4-1-03	Amend	5-1-03
461-115-0705	2-1-03	Amend	3-1-03
461-120-0120	1-1-03	Amend	2-1-03
461-120-0125	4-1-03	Amend	5-1-03
461-120-0210	2-1-03	Amend	3-1-03
461-120-0345	2-1-03	Amend	3-1-03
461-120-0630	4-1-03	Amend	5-1-03
461-125-0370	4-11-03	Amend(T)	5-1-03
461-125-0600	1-1-03	Amend	2-1-03
461-130-0305	4-1-03	Amend	5-1-03
461-130-0315	4-1-03	Amend	5-1-03
461-130-0330	4-1-03	Amend	5-1-03
461-135-0010	2-1-03	Amend	3-1-03
461-135-0082	4-1-03	Amend	5-1-03
461-135-0301	1-1-03	Adopt(T)	2-1-03
461-135-0400	4-1-03	Amend	5-1-03
461-135-0401	1-1-03	Adopt	2-1-03
461-135-0401(T)	1-1-03	Repeal	2-1-03
461-135-0415	4-1-03	Amend	5-1-03
461-135-0505	2-7-03	Amend(T)	3-1-03
461-135-0530	4-1-03	Amend	5-1-03
461-135-0701	12-30-02	Adopt(T)	2-1-03
461-135-0721	1-1-03	Adopt(T)	2-1-03
461-135-0730	1-1-03	Amend	2-1-03
461-135-0730	1-1-03	Amend(T)	1-1-03
461-135-0730(T)	1-1-03	Repeal	2-1-03
461-135-0900	1-1-03	Amend	2-1-03
461-135-0990	2-1-03	Amend	3-1-03
461-135-1070	2-1-03	Amend	3-1-03
461-135-1100	2-1-03	Amend	3-1-03
461-135-1110	2-1-03	Amend	3-1-03
461-135-1110	4-1-03	Amend	5-1-03
461-135-1110(T)	4-1-03	Repeal	5-1-03
461-135-1120	2-1-03	Amend	3-1-03
461-135-1130	2-1-03	Amend	3-1-03
461-135-1180	2-1-03	Adopt	3-1-03
461-145-0080	4-1-03	Amend	5-1-03
461-145-0130	4-1-03	Amend	5-1-03
461-145-0255	1-1-03	Amend	2-1-03
461-145-0540	11-19-02	Amend(T)	1-1-03
461-145-0820	4-1-03	Amend(T)	5-1-03
461-145-0830	4-1-03	Amend(T)	5-1-03
461-150-0055	2-1-03	Amend	3-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03
461-155-0150(T)	2-7-03	Suspend	3-1-03
461-155-0225	2-1-03	Amend	3-1-03
461-155-0225	2-7-03	Amend(T)	3-1-03
461-155-0225	4-1-03	Amend	5-1-03
461-155-0225(T)	4-1-03	Repeal	5-1-03
461-155-0235	2-1-03	Amend	3-1-03
461-155-0235	3-1-03	Amend(T)	4-1-03
461-155-0235	4-1-03	Amend	5-1-03
461-155-0235(T)	4-1-03	Repeal	5-1-03
461-155-0250	1-1-03	Amend	2-1-03
461-155-0250	4-1-03	Amend	5-1-03
461-155-0270	1-1-03	Amend	2-1-03
461-155-0290	4-1-03	Amend	5-1-03
461-155-0291	4-1-03	Amend	5-1-03
461-155-0295	1-1-03	Amend	2-1-03
461-155-0295	1-1-03	Amend(T)	1-1-03
461-155-0295	4-1-03	Amend	5-1-03
461-155-0295(T)	1-1-03	Repeal	2-1-03
461-155-0300	1-1-03	Amend	2-1-03
461-155-0360	2-1-03	Amend	3-1-03
461-155-0680	1-1-03	Amend	2-1-03
461-160-0010	2-1-03	Amend	3-1-03
461-160-0015	2-1-03	Amend	3-1-03
461-160-0040	4-1-03	Amend	5-1-03
461-160-0193	4-1-03	Amend	5-1-03
461-160-0580	1-1-03	Amend	2-1-03
461-160-0620	1-1-03	Amend	2-1-03
461-160-0700	2-1-03	Amend	3-1-03
461-160-0810	1-1-03	Amend	2-1-03
461-165-0030	2-1-03	Amend	3-1-03
461-165-0030	4-1-03	Amend	5-1-03
461-165-0160	4-1-03	Amend	5-1-03
461-165-0171	4-1-03	Adopt	5-1-03
461-165-0180	1-1-03	Amend	2-1-03
461-165-0190	4-1-03	Amend	5-1-03
461-170-0015	1-1-03	Amend(T)	2-1-03
461-170-0015	4-1-03	Amend	5-1-03
461-170-0015(T)	4-1-03	Repeal	5-1-03
461-170-0020	1-1-03	Amend(T)	2-1-03
461-170-0020	4-1-03	Amend	5-1-03
461-170-0020(T)	4-1-03	Repeal	5-1-03
461-170-0030	1-1-03	Amend(T)	2-1-03
461-170-0030	4-1-03	Amend	5-1-03
461-170-0030(T)	4-1-03	Repeal	5-1-03
461-170-0035	2-1-03	Amend	3-1-03
461-175-0010	1-1-03	Amend(T)	2-1-03
461-175-0207	4-1-03	Amend	5-1-03
461-180-0010	4-1-03	Amend	5-1-03
461-180-0070	4-1-03	Amend	5-1-03
461-180-0090	3-1-03	Amend	4-1-03
461-180-0097	2-1-03	Amend	3-1-03
461-180-0100	2-1-03	Amend	3-1-03
461-190-0360	4-1-03	Amend	5-1-03

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461-193-0560	2-14-03	Amend(T)	3-1-03
461-193-0560(T)	2-14-03	Suspend	3-1-03
461-195-0521	1-1-03	Amend	2-1-03
461-200-1070	1-1-03	Adopt	2-1-03
461-200-1160	3-1-03	Amend	4-1-03
461-200-1180	3-1-03	Amend	4-1-03
461-200-1500	3-1-03	Amend	4-1-03
461-200-3260	3-1-03	Amend	4-1-03
461-200-3420	3-1-03	Amend	4-1-03
461-200-5020	3-1-03	Amend	4-1-03
461-200-5040	3-1-03	Amend	4-1-03
461-200-5060	3-1-03	Amend	4-1-03
461-200-5120	3-1-03	Amend	4-1-03
461-200-5125	3-1-03	Amend	4-1-03
461-200-7140	3-1-03	Amend	4-1-03
462-110-0010	1-1-03	Amend	1-1-03
462-110-0020	1-1-03	Amend	1-1-03
462-110-0030	4-1-03	Amend(T)	5-1-03
462-120-0020	1-1-03	Amend	1-1-03
462-120-0040	1-1-03	Amend	1-1-03
462-120-0050	1-1-03	Amend	1-1-03
462-120-0100	1-1-03	Amend	1-1-03
462-130-0010	1-1-03	Amend	1-1-03
462-130-0050	1-1-03	Amend	1-1-03
462-140-0030	1-1-03	Amend	1-1-03
462-140-0040	1-1-03	Amend	1-1-03
462-140-0100	1-1-03	Amend	1-1-03
462-140-0120	4-1-03	Amend(T)	5-1-03
462-140-0130	1-1-03	Amend	1-1-03
462-140-0250	1-1-03	Amend	1-1-03
462-140-0370	1-1-03	Amend	1-1-03
462-140-0400	4-1-03	Amend(T)	5-1-03
462-140-0420	4-1-03	Amend(T)	5-1-03
462-140-0460	4-1-03	Amend(T)	5-1-03
462-150-0010	1-1-03	Amend	1-1-03
462-150-0050	1-1-03	Amend	1-1-03
462-150-0070	1-1-03	Amend	1-1-03
462-150-0080	1-1-03	Amend	1-1-03
462-160-0010	1-1-03	Amend	1-1-03
462-160-0020	1-1-03	Amend	1-1-03
462-160-0030	1-1-03	Amend	1-1-03
462-170-0030	4-1-03	Amend(T)	5-1-03
462-170-0050	4-1-03	Amend(T)	5-1-03
462-170-0080	4-1-03	Amend(T)	5-1-03
462-180-0010	4-1-03	Amend(T)	5-1-03
471-010-0040	2-9-03	Amend	3-1-03
471-010-0050	3-29-03	Amend(T)	5-1-03
471-010-0054	12-1-02	Amend(T)	1-1-03
471-020-0035	2-16-03	Adopt	3-1-03
471-020-0040	2-16-03	Adopt	3-1-03
471-030-0015	2-9-03	Amend	3-1-03
471-030-0030	2-9-03	Amend	3-1-03
471-030-0036	4-13-03	Amend	5-1-03
471-030-0050	2-9-03	Amend	3-1-03
471-030-0076	2-9-03	Amend	3-1-03
471-030-0080	11-24-02	Amend	1-1-03
471-031-0010	2-9-03	Amend	3-1-03
471-031-0035	2-9-03	Amend	3-1-03
471-031-0040	2-9-03	Amend	3-1-03
471-031-0055	2-9-03	Amend	3-1-03
471-031-0075	2-9-03	Amend	3-1-03
471-031-0095	2-9-03	Amend	3-1-03
543-040-0040	12-16-02	Amend(T)	1-1-03
573-070-0011	12-30-02	Amend	2-1-03
574-050-0005	4-2-03	Amend	5-1-03
581-015-0005	3-10-03	Amend	4-1-03
581-015-0016	3-10-03	Amend	4-1-03
581-015-0017	3-10-03	Amend	4-1-03
581-015-0035	3-10-03	Amend	4-1-03
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581-015-0039	3-10-03	Amend	4-1-03
581-015-0042	3-10-03	Amend	4-1-03
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581-015-0048	3-10-03	Amend	4-1-03
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581-015-0051	3-10-03	Amend	4-1-03
581-015-0054	3-10-03	Amend	4-1-03
581-015-0057	3-10-03	Amend	4-1-03
581-015-0059	3-10-03	Amend	4-1-03
581-015-0061	3-10-03	Amend	4-1-03
581-015-0062	3-10-03	Amend	4-1-03
581-015-0063	3-10-03	Amend	4-1-03
581-015-0066	3-10-03	Amend	4-1-03
581-015-0067	3-10-03	Amend	4-1-03
581-015-0068	3-10-03	Amend	4-1-03
581-015-0075	3-10-03	Amend	4-1-03
581-015-0079	3-10-03	Amend	4-1-03
581-015-0080	3-10-03	Amend	4-1-03
581-015-0081	3-10-03	Amend	4-1-03
581-015-0085	3-10-03	Amend	4-1-03
581-015-0086	3-10-03	Amend	4-1-03
581-015-0088	3-10-03	Amend	4-1-03
581-015-0093	3-10-03	Amend	4-1-03
581-015-0094	3-10-03	Amend	4-1-03
581-015-0097	3-10-03	Adopt	4-1-03
581-015-0099	3-10-03	Amend	4-1-03
581-015-0101	3-10-03	Amend	4-1-03
581-015-0126	3-10-03	Amend	4-1-03
581-015-0131	3-10-03	Amend	4-1-03
581-015-0296	3-10-03	Amend	4-1-03
581-015-0550	3-10-03	Amend	4-1-03
581-015-0551	3-10-03	Amend	4-1-03
581-015-0552	3-10-03	Amend	4-1-03
581-015-0553	3-10-03	Amend	4-1-03
581-015-0555	3-10-03	Amend	4-1-03
581-015-0556	3-10-03	Amend	4-1-03
581-015-0558	3-10-03	Amend	4-1-03
581-015-0559	3-10-03	Amend	4-1-03
581-015-0568	3-10-03	Amend	4-1-03
581-015-0601	3-10-03	Amend	4-1-03
581-015-0607	3-10-03	Adopt	4-1-03

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581-015-0805	3-10-03	Amend	4-1-03
581-015-0811	3-10-03	Amend	4-1-03
581-015-0816	3-10-03	Amend	4-1-03
581-015-0820	3-10-03	Amend	4-1-03
581-015-0825	3-10-03	Amend	4-1-03
581-015-0900	3-10-03	Amend	4-1-03
581-015-0935	3-10-03	Amend	4-1-03
581-015-0937	3-10-03	Amend	4-1-03
581-015-0938	3-10-03	Amend	4-1-03
581-015-0939	3-10-03	Amend	4-1-03
581-015-0945	3-10-03	Amend	4-1-03
581-015-0946	3-10-03	Amend	4-1-03
581-015-0960	3-10-03	Amend	4-1-03
581-015-0964	3-10-03	Amend	4-1-03
581-015-0966	3-10-03	Amend	4-1-03
581-015-0968	3-10-03	Amend	4-1-03
581-015-0970	3-10-03	Amend	4-1-03
581-015-0972	3-10-03	Adopt	4-1-03
581-015-0980	3-10-03	Amend	4-1-03
581-015-0990	3-10-03	Amend	4-1-03
581-015-1000	3-10-03	Amend	4-1-03
581-015-1008	3-10-03	Amend	4-1-03
581-015-1051	3-10-03	Adopt	4-1-03
581-015-1052	3-10-03	Adopt	4-1-03
581-015-1100	3-10-03	Amend	4-1-03
581-015-1107	3-10-03	Repeal	4-1-03
581-015-1110	3-10-03	Amend	4-1-03
581-020-0341	4-2-03	Amend(T)	5-1-03
581-022-0102	3-14-03	Amend	4-1-03
581-022-1131	3-14-03	Adopt	4-1-03
581-022-1350	3-14-03	Amend	4-1-03
581-023-0035	3-10-03	Amend	4-1-03
581-053-0002	3-4-03	Amend(T)	4-1-03
584-017-0041	3-10-03	Adopt(T)	4-1-03
584-017-0170	1-13-03	Amend	2-1-03
584-036-0055	1-13-03	Amend	2-1-03
584-060-0061	1-13-03	Amend	2-1-03
584-065-0050	1-13-03	Adopt	2-1-03
589-001-0000	1-9-03	Amend	2-1-03
589-002-0100	12-16-02	Amend(T)	2-1-03
589-002-0200	1-9-03	Amend	2-1-03
589-002-0300	1-9-03	Amend	2-1-03
589-002-0400	1-9-03	Repeal	2-1-03
589-002-0500	1-9-03	Amend	2-1-03
589-002-0600	1-9-03	Amend	2-1-03
589-002-0700	1-9-03	Amend	2-1-03
589-002-0800	1-9-03	Amend	2-1-03
589-003-0100	1-9-03	Amend	2-1-03
589-005-0100	1-9-03	Amend	2-1-03
589-005-0200	1-9-03	Amend	2-1-03
589-005-0300	1-9-03	Amend	2-1-03
589-005-0400	1-9-03	Amend	2-1-03
589-005-0500	1-9-03	Amend	2-1-03
589-006-0050	1-9-03	Adopt	2-1-03
589-006-0100	1-9-03	Amend	2-1-03
589-006-0150	1-9-03	Adopt	2-1-03
589-006-0200	1-9-03	Amend	2-1-03
589-006-0300	1-9-03	Amend	2-1-03
589-006-0350	1-9-03	Adopt	2-1-03
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589-007-0150	3-10-03	Adopt	4-1-03
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589-007-0300	1-9-03	Amend	2-1-03
589-008-0100	1-9-03	Amend	2-1-03
589-008-0200	1-9-03	Amend	2-1-03
589-009-0100	1-9-03	Amend	2-1-03
589-020-0270	12-4-02	Adopt(T)	1-1-03
603-001-0005	1-7-03	Amend	2-1-03
603-011-0265	3-17-03	Amend(T)	5-1-03
603-011-0376	1-17-03	Adopt(T)	3-1-03
603-011-0376	3-27-03	Amend(T)	5-1-03
603-011-0376(T)	3-27-03	Suspend	5-1-03
603-014-0095	1-15-03	Amend	2-1-03
603-025-0010	1-1-03	Amend	2-1-03
603-025-0020	1-1-03	Amend	2-1-03
603-025-0030	1-1-03	Amend	2-1-03
603-025-0180	1-1-03	Amend	2-1-03
603-025-0190	1-1-03	Amend	2-1-03
603-025-0220	1-1-03	Repeal	2-1-03
603-052-1150	1-14-03	Adopt	2-1-03
603-052-1200	12-10-02	Amend	1-1-03
603-053-0200	12-23-02	Amend	2-1-03
603-054-0016	1-7-03	Amend	2-1-03
603-054-0017	1-7-03	Amend	2-1-03
603-054-0018	1-7-03	Amend	2-1-03
603-054-0020	1-7-03	Adopt	2-1-03
603-054-0024	1-7-03	Adopt	2-1-03
603-054-0030	1-7-03	Amend	2-1-03
603-054-0080	1-7-03	Adopt	2-1-03
603-056-0165	1-14-03	Amend	2-1-03
603-057-0378	3-28-03	Adopt(T)	5-1-03
603-057-0410	12-4-02	Amend(T)	1-1-03
603-059-0055	1-1-03	Adopt	1-1-03
603-059-0070	1-1-03	Adopt	1-1-03
603-059-0080	1-1-03	Adopt	1-1-03
603-059-0100	1-1-03	Adopt	1-1-03
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603-082-0100	2-27-03	Adopt	4-1-03
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603-095-0220	1-7-03	Amend	2-1-03
603-095-0240	1-7-03	Amend	2-1-03
603-095-0280	1-7-03	Amend	2-1-03
603-095-0600	1-7-03	Amend	2-1-03
603-095-0640	1-7-03	Amend	2-1-03
603-095-0660	1-7-03	Amend	2-1-03
603-095-2000	1-7-03	Adopt	2-1-03
603-095-2020	1-7-03	Adopt	2-1-03
603-095-2040	1-7-03	Adopt	2-1-03
603-095-2060	1-7-03	Adopt	2-1-03
603-095-2300	1-7-03	Adopt	2-1-03
603-095-2320	1-7-03	Adopt	2-1-03
603-095-2340	1-7-03	Adopt	2-1-03
603-095-2360	1-7-03	Adopt	2-1-03
603-095-2400	1-7-03	Adopt	2-1-03
603-095-2420	1-7-03	Adopt	2-1-03
603-095-2440	1-7-03	Adopt	2-1-03
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621-001-0010	2-1-03	Adopt	2-1-03
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622-001-0005	1-16-03	Amend	2-1-03
622-001-0010	1-16-03	Repeal	2-1-03
622-010-0000	1-16-03	Amend	2-1-03
622-010-0006	1-16-03	Amend	2-1-03
622-010-0011	1-16-03	Amend	2-1-03
622-020-0001	1-16-03	Amend	2-1-03
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622-020-0141	1-16-03	Amend	2-1-03
622-020-0142	1-16-03	Amend	2-1-03
622-020-0144	1-16-03	Amend	2-1-03
622-020-0145	1-16-03	Amend	2-1-03
622-020-0147	1-16-03	Amend	2-1-03
622-020-0149	1-16-03	Amend	2-1-03
622-020-0151	1-16-03	Repeal	2-1-03
622-020-0153	1-16-03	Amend	2-1-03
622-030-0005	1-16-03	Amend	2-1-03
622-030-0010	1-16-03	Amend	2-1-03
622-045-0000	1-16-03	Amend	2-1-03
622-045-0005	1-16-03	Amend	2-1-03
622-045-0010	1-16-03	Amend	2-1-03
622-045-0015	1-16-03	Amend	2-1-03
622-045-0019	1-16-03	Amend	2-1-03
622-050-0000	1-16-03	Repeal	2-1-03
622-050-0010	1-16-03	Repeal	2-1-03
622-050-0020	1-16-03	Repeal	2-1-03
622-050-0030	1-16-03	Repeal	2-1-03
622-050-0040	1-16-03	Repeal	2-1-03
622-050-0050	1-16-03	Repeal	2-1-03
622-050-0060	1-16-03	Repeal	2-1-03
622-055-0003	1-16-03	Adopt	2-1-03
622-055-0005	1-16-03	Amend	2-1-03
622-055-0010	1-16-03	Adopt	2-1-03
622-055-0015	1-16-03	Adopt	2-1-03
622-055-0020	1-16-03	Adopt	2-1-03
622-055-0025	1-16-03	Adopt	2-1-03
622-065-0001	1-16-03	Amend	2-1-03
622-065-0002	1-16-03	Amend	2-1-03
622-065-0003	1-16-03	Amend	2-1-03
622-065-0004	1-16-03	Repeal	2-1-03
622-065-0010	1-16-03	Amend	2-1-03
622-065-0011	1-16-03	Amend	2-1-03
622-065-0012	1-16-03	Repeal	2-1-03
629-600-0100	1-1-03	Amend	1-1-03
629-606-0200	1-1-03	Amend	1-1-03
629-606-0600	1-1-03	Amend	1-1-03
629-623-0000	1-1-03	Adopt	1-1-03
629-623-0100	1-1-03	Adopt	1-1-03
629-623-0200	1-1-03	Adopt	1-1-03
629-623-0250	1-1-03	Adopt	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03
629-623-0450	1-1-03	Adopt	1-1-03
629-623-0500	1-1-03	Adopt	1-1-03
629-623-0550	1-1-03	Adopt	1-1-03
629-623-0600	1-1-03	Adopt	1-1-03
629-623-0700	1-1-03	Adopt	1-1-03
629-623-0800	1-1-03	Adopt	1-1-03
629-625-0100	1-1-03	Amend	1-1-03
629-625-0200	1-1-03	Amend	1-1-03
629-625-0310	1-1-03	Amend	1-1-03
629-625-0330	1-1-03	Amend	1-1-03
629-625-0600	1-1-03	Amend	1-1-03
629-625-0700	1-1-03	Adopt	1-1-03
629-630-0100	1-1-03	Amend	1-1-03
629-630-0150	1-1-03	Adopt	1-1-03
629-630-0500	1-1-03	Amend	1-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03
632-007-0000	1-1-03	Adopt	2-1-03
632-007-0000	1-1-03	Suspend	2-1-03
632-007-0010	1-1-03	Adopt	2-1-03
632-007-0010	1-1-03	Suspend	2-1-03
632-007-0020	1-1-03	Adopt	2-1-03
632-007-0020	1-1-03	Suspend	2-1-03
632-007-0030	1-1-03	Adopt	2-1-03
632-007-0030	1-1-03	Suspend	2-1-03
635-003-0004	3-1-03	Amend(T)	4-1-03
635-004-0005	1-1-03	Amend	2-1-03
635-004-0018	1-1-03	Amend	2-1-03
635-004-0025	1-1-03	Amend	2-1-03
635-004-0027	2-10-03	Amend(T)	3-1-03
635-004-0029	1-1-03	Amend	2-1-03
635-004-0033	1-1-03	Amend	2-1-03
635-004-0033	2-21-03	Amend(T)	4-1-03
635-004-0033	3-26-03	Amend	5-1-03
635-004-0050	1-1-03	Amend	2-1-03
635-005-0045	11-20-02	Amend(T)	1-1-03

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635-005-0045(T)	12-6-02	Suspend	1-1-03
635-005-0190	3-26-03	Amend	5-1-03
635-006-0232	2-1-03	Amend	3-1-03
635-006-0850	1-1-03	Amend	2-1-03
635-006-0850	3-26-03	Amend	5-1-03
635-006-1010	2-10-03	Amend(T)	3-1-03
635-006-1035	2-10-03	Amend(T)	3-1-03
635-006-1085	2-10-03	Amend(T)	3-1-03
635-007-0501	11-22-02	Amend	1-1-03
635-007-0502	11-22-02	Adopt	1-1-03
635-007-0503	11-22-02	Adopt	1-1-03
635-007-0504	11-22-02	Adopt	1-1-03
635-007-0505	11-22-02	Adopt	1-1-03
635-007-0506	11-22-02	Adopt	1-1-03
635-011-0101	1-1-03	Amend	1-1-03
635-013-0003	1-1-03	Amend	1-1-03
635-013-0004	1-1-03	Amend	1-1-03
635-013-0004	3-1-03	Amend(T)	4-1-03
635-013-0009	3-1-03	Amend(T)	4-1-03
635-014-0080	1-1-03	Amend	1-1-03
635-014-0090	1-1-03	Amend	1-1-03
635-014-0090	3-1-03	Amend(T)	4-1-03
635-016-0080	1-1-03	Amend	1-1-03
635-016-0090	1-1-03	Amend	1-1-03
635-017-0080	1-1-03	Amend	1-1-03
635-017-0090	1-1-03	Amend	1-1-03
635-017-0090	3-1-03	Amend(T)	4-1-03
635-018-0080	1-1-03	Amend	1-1-03
635-018-0090	1-1-03	Amend	1-1-03
635-018-0090	4-15-03	Amend(T)	5-1-03
635-019-0080	1-1-03	Amend	1-1-03
635-019-0090	1-1-03	Amend	1-1-03
635-021-0080	1-1-03	Amend	1-1-03
635-021-0090	1-1-03	Amend	1-1-03
635-021-0100	1-1-03	Repeal	1-1-03
635-023-0080	1-1-03	Amend	1-1-03
635-023-0090	1-1-03	Amend	1-1-03
635-023-0090	2-14-03	Amend	3-1-03
635-023-0090	3-1-03	Amend(T)	4-1-03
635-023-0090	4-3-03	Amend(T)	5-1-03
635-039-0080	1-1-03	Amend	1-1-03
635-039-0090	1-1-03	Amend	1-1-03
635-041-0030	3-25-03	Amend(T)	5-1-03
635-041-0065	12-19-02	Amend(T)	2-1-03
635-041-0065	3-13-03	Amend(T)	4-1-03
635-042-0020	2-14-03	Amend	3-1-03
635-042-0020	2-20-03	Amend(T)	4-1-03
635-042-0021	3-21-03	Adopt(T)	5-1-03
635-042-0110	2-14-03	Amend	3-1-03
635-042-0130	12-19-02	Amend(T)	2-1-03
635-042-0135	12-19-02	Amend(T)	2-1-03
635-042-0135	1-28-03	Amend(T)	3-1-03
635-042-0135	2-3-03	Amend(T)	3-1-03
635-042-0145	2-14-03	Amend	3-1-03
635-042-0145	3-1-03	Amend(T)	4-1-03
635-042-0160	2-14-03	Amend	3-1-03
635-042-0170	2-14-03	Amend	3-1-03
635-042-0180	4-17-03	Amend(T)	4-1-03
635-043-0056	1-14-03	Adopt(T)	2-1-03
635-043-0056	4-15-03	Adopt(T)	5-1-03
635-045-0000	1-17-02	Amend	3-1-03
635-045-0002	1-17-02	Amend	3-1-03
635-060-0000	1-17-02	Amend	3-1-03
635-060-0046	4-9-03	Amend(T)	5-1-03
635-060-0055	4-1-03	Amend	3-1-03
635-065-0001	1-17-02	Amend	3-1-03
635-065-0001	1-28-03	Amend(T)	3-1-03
635-065-0015	1-17-02	Amend	3-1-03
635-065-0090	1-17-02	Amend	3-1-03
635-065-0101	1-17-02	Amend	3-1-03
635-065-0301	1-17-02	Amend	3-1-03
635-065-0401	1-17-02	Amend	3-1-03
635-065-0625	1-17-02	Amend	3-1-03
635-065-0625	1-28-03	Amend(T)	3-1-03
635-065-0735	1-17-02	Amend	3-1-03
635-065-0740	1-17-02	Amend	3-1-03
635-065-0760	7-1-03	Amend	3-1-03
635-065-0765	1-17-02	Amend	3-1-03
635-066-0000	1-17-02	Amend	3-1-03
635-066-0020	1-17-02	Amend	3-1-03
635-067-0000	1-17-02	Amend	3-1-03
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635-067-0015	1-17-02	Amend	3-1-03
635-067-0032	1-17-02	Amend	3-1-03
635-067-0034	1-17-02	Amend	3-1-03
635-067-0040	1-17-02	Amend	3-1-03
635-068-0000	1-20-03	Amend	3-1-03
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635-070-0000	1-17-02	Amend	3-1-03
635-070-0000	1-28-03	Amend(T)	3-1-03
635-071-0000	1-17-02	Amend	3-1-03
635-071-0000	1-28-03	Amend(T)	3-1-03
635-071-0030	1-17-02	Amend	3-1-03
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635-073-0000	1-20-03	Amend	3-1-03
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635-073-0080	1-17-02	Amend	3-1-03
635-073-0090	1-17-02	Amend	3-1-03
635-075-0020	4-1-03	Amend	3-1-03
635-075-0029	3-28-03	Amend(T)	5-1-03
635-078-0008	1-17-02	Amend	3-1-03
635-080-0070	1-17-02	Amend	3-1-03
635-160-0000	2-14-03	Amend	3-1-03
635-160-0010	2-14-03	Amend	3-1-03
635-160-0020	2-14-03	Amend	3-1-03
635-160-0030	2-14-03	Amend	3-1-03
635-190-0000	2-14-03	Amend	3-1-03
635-190-0010	2-14-03	Amend	3-1-03

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635-190-0030	2-14-03	Amend	3-1-03
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635-412-0030	3-26-03	Adopt	5-1-03
644-001-0000	1-6-03	Amend	2-1-03
644-001-0005	1-6-03	Repeal	2-1-03
644-001-0010	1-6-03	Repeal	2-1-03
644-010-0015	1-6-03	Amend	2-1-03
660-022-0030	3-28-03	Amend(T)	5-1-03
660-026-0000	1-17-03	Adopt	3-1-03
660-026-0010	1-17-03	Adopt	3-1-03
660-026-0020	1-17-03	Adopt	3-1-03
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660-026-0040	1-17-03	Adopt	3-1-03
678-010-0040	12-30-02	Amend	2-1-03
690-200-0050	3-14-03	Amend	4-1-03
690-205-0005	3-14-03	Amend	4-1-03
690-205-0020	3-14-03	Amend	4-1-03
690-205-0030	3-14-03	Renumber	4-1-03
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690-205-0040	3-14-03	Renumber	4-1-03
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690-205-0050	3-14-03	Renumber	4-1-03
690-205-0055	3-14-03	Adopt	4-1-03
690-205-0060	3-14-03	Renumber	4-1-03
690-205-0070	3-14-03	Am. & Ren.	4-1-03
690-205-0075	3-14-03	Adopt	4-1-03
690-205-0080	3-14-03	Renumber	4-1-03
690-205-0085	3-14-03	Adopt	4-1-03
690-205-0095	3-14-03	Adopt	4-1-03
690-205-0110	3-14-03	Adopt	4-1-03
690-205-0120	3-14-03	Adopt	4-1-03
690-240-0010	3-14-03	Amend	4-1-03
690-240-0020	3-14-03	Amend	4-1-03
690-240-0035	3-14-03	Amend	4-1-03
690-240-0055	3-14-03	Amend	4-1-03
690-240-0065	3-14-03	Amend	4-1-03
690-240-0075	3-14-03	Renumber	4-1-03
690-240-0080	3-14-03	Renumber	4-1-03
690-240-0082	3-14-03	Renumber	4-1-03
690-240-0085	3-14-03	Renumber	4-1-03
690-240-0090	3-14-03	Am. & Ren.	4-1-03
690-240-0095	3-14-03	Am. & Ren.	4-1-03
690-240-0100	3-14-03	Am. & Ren.	4-1-03
690-240-0110	3-14-03	Renumber	4-1-03
690-240-0115	3-14-03	Renumber	4-1-03
690-240-0118	3-14-03	Am. & Ren.	4-1-03
690-240-0120	3-14-03	Renumber	4-1-03
690-240-0126	3-14-03	Am. & Ren.	4-1-03
690-240-0130	3-14-03	Renumber	4-1-03
690-240-0131	3-14-03	Renumber	4-1-03
690-240-0132	3-14-03	Am. & Ren.	4-1-03
690-240-0135	3-14-03	Am. & Ren.	4-1-03
690-240-0137	3-14-03	Am. & Ren.	4-1-03
690-240-0139	3-14-03	Renumber	4-1-03
690-240-0145	3-14-03	Renumber	4-1-03
690-240-0150	3-14-03	Renumber	4-1-03
690-240-0155	3-14-03	Am. & Ren.	4-1-03
690-240-0160	3-14-03	Renumber	4-1-03
690-240-0165	3-14-03	Renumber	4-1-03
690-240-0170	3-14-03	Renumber	4-1-03
690-240-0175	3-14-03	Am. & Ren.	4-1-03
690-240-0180	3-14-03	Am. & Ren.	4-1-03
690-240-0200	3-14-03	Adopt	4-1-03
690-240-0210	3-14-03	Adopt	4-1-03
690-240-0220	3-14-03	Adopt	4-1-03
690-240-0240	3-14-03	Adopt	4-1-03
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690-240-0260	3-14-03	Adopt	4-1-03
690-240-0270	3-14-03	Adopt	4-1-03
690-240-0280	3-14-03	Adopt	4-1-03
695-020-0040	4-12-03	Amend(T)	5-1-03
695-020-0041	4-12-03	Adopt(T)	5-1-03
718-005-0005	4-1-03	Repeal	5-1-03
718-005-0010	4-1-03	Repeal	5-1-03
718-005-0015	4-1-03	Amend	5-1-03
718-010-0000	4-1-03	Amend	5-1-03
718-010-0005	4-1-03	Amend	5-1-03
718-010-0025	4-1-03	Repeal	5-1-03
718-010-0030	4-1-03	Repeal	5-1-03
718-010-0035	4-1-03	Amend	5-1-03
718-010-0040	4-1-03	Repeal	5-1-03
718-010-0045	4-1-03	Repeal	5-1-03
718-010-0050	4-1-03	Repeal	5-1-03
718-010-0055	4-1-03	Repeal	5-1-03
718-010-0060	4-1-03	Repeal	5-1-03
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718-010-0080	4-1-03	Repeal	5-1-03
718-010-0085	4-1-03	Amend	5-1-03
718-010-0090	4-1-03	Amend	5-1-03
718-020-0000	4-1-03	Amend	5-1-03
718-020-0010	4-1-03	Amend	5-1-03
718-020-0020	4-1-03	Amend	5-1-03
718-020-0050	4-1-03	Amend	5-1-03
718-020-0080	4-1-03	Amend	5-1-03
718-020-0110	4-1-03	Amend	5-1-03
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718-040-0030	4-1-03	Amend	5-1-03
718-040-0110	4-1-03	Amend	5-1-03
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731-010-0030	3-24-03	Amend	5-1-03
731-010-0030(T)	3-24-03	Repeal	5-1-03
734-070-0020	12-13-02	Adopt	1-1-03
734-070-0020(T)	12-13-02	Repeal	1-1-03
734-071-0010	12-13-02	Amend	1-1-03
735-010-0045	11-18-02	Amend	1-1-03
735-050-0110	1-1-03	Amend	1-1-03
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735-062-0135	2-13-03	Adopt	3-1-03
735-074-0005	1-1-03	Adopt	1-1-03
735-074-0010	1-1-03	Amend	1-1-03
735-074-0020	1-1-03	Amend	1-1-03
735-090-0000	11-18-02	Amend	1-1-03
735-090-0010	11-18-02	Repeal	1-1-03
735-090-0020	11-18-02	Amend	1-1-03
735-090-0030	11-18-02	Repeal	1-1-03
735-090-0040	11-18-02	Amend	1-1-03
735-090-0050	11-18-02	Repeal	1-1-03
735-090-0060	11-18-02	Repeal	1-1-03
735-090-0070	11-18-02	Repeal	1-1-03
735-090-0080	11-18-02	Repeal	1-1-03
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735-090-0100	11-18-02	Repeal	1-1-03
735-090-0110	11-18-02	Amend	1-1-03
735-150-0060	11-18-02	Amend	1-1-03
736-018-0045	2-27-03	Amend	4-1-03
736-018-0045	2-27-03	Amend	4-1-03
736-100-0000	2-1-03	Adopt	3-1-03
736-100-0010	2-1-03	Adopt	3-1-03
736-100-0020	2-1-03	Adopt	3-1-03
736-100-0030	2-1-03	Adopt	3-1-03
736-100-0040	2-1-03	Adopt	3-1-03
736-100-0050	2-1-03	Adopt	3-1-03
736-100-0060	2-1-03	Adopt	3-1-03
736-100-0070	2-1-03	Adopt	3-1-03
736-100-0080	2-1-03	Adopt	3-1-03
738-001-0035	12-1-02	Amend	1-1-03
738-010-0025	12-1-02	Amend	1-1-03
738-010-0025	4-3-03	Amend	5-1-03
738-020-0020	12-1-02	Amend	1-1-03
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738-035-0010	3-1-03	Adopt	4-1-03
738-035-0015	3-1-03	Adopt	4-1-03
738-035-0020	3-1-03	Adopt	4-1-03
738-035-0025	3-1-03	Adopt	4-1-03
738-035-0030	3-1-03	Adopt	4-1-03
738-035-0035	3-1-03	Adopt	4-1-03
738-035-0040	3-1-03	Adopt	4-1-03
738-035-0045	3-1-03	Adopt	4-1-03
738-035-0050	3-1-03	Adopt	4-1-03
738-035-0055	3-1-03	Adopt	4-1-03
738-035-0060	3-1-03	Adopt	4-1-03
738-035-0065	3-1-03	Adopt	4-1-03
738-035-0070	3-1-03	Adopt	4-1-03
738-035-0075	3-1-03	Adopt	4-1-03
738-040-0010	12-1-02	Amend	1-1-03
738-040-0020	12-1-02	Amend	1-1-03
738-040-0040	12-1-02	Amend	1-1-03
738-050-0020	12-1-02	Amend	1-1-03
738-050-0060	12-1-02	Amend	1-1-03
738-050-0070	12-1-02	Amend	1-1-03
738-050-0090	12-1-02	Amend	1-1-03
738-060-0050	12-1-02	Amend	1-1-03
738-070-0010	12-1-02	Amend	1-1-03
738-070-0020	12-1-02	Amend	1-1-03
738-070-0040	12-1-02	Amend	1-1-03
738-070-0060	12-1-02	Amend	1-1-03
738-070-0070	12-1-02	Amend	1-1-03
738-070-0080	12-1-02	Amend	1-1-03
738-070-0100	12-1-02	Amend	1-1-03
738-070-0160	12-1-02	Amend	1-1-03
738-070-0170	12-1-02	Amend	1-1-03
738-070-0180	12-1-02	Amend	1-1-03
738-070-0210	12-1-02	Amend	1-1-03
738-070-0230	12-1-02	Amend	1-1-03
738-080-0030	12-1-02	Amend	1-1-03
738-090-0030	12-1-02	Amend	1-1-03
738-090-0040	12-1-02	Amend	1-1-03
738-090-0050	12-1-02	Amend	1-1-03
738-100-0010	12-1-02	Amend	1-1-03
738-100-0035	12-1-02	Amend	1-1-03
740-035-0200	11-18-02	Amend	1-1-03
740-035-0210	11-18-02	Repeal	1-1-03
740-035-0220	11-18-02	Repeal	1-1-03
740-035-0230	11-18-02	Repeal	1-1-03
740-035-0240	11-18-02	Repeal	1-1-03
740-035-0250	11-18-02	Amend	1-1-03
740-035-0260	11-18-02	Amend	1-1-03
740-055-0120	2-13-03	Amend	3-1-03
740-200-0010	11-18-02	Amend	1-1-03
740-200-0020	11-18-02	Amend	1-1-03
740-200-0040	11-18-02	Adopt	1-1-03
741-500-0010	3-24-03	Repeal	5-1-03
741-500-0020	3-24-03	Repeal	5-1-03
741-500-0030	3-24-03	Repeal	5-1-03
741-500-0040	3-24-03	Repeal	5-1-03
741-500-0050	3-24-03	Repeal	5-1-03
801-001-0000	1-1-03	Amend	2-1-03
801-001-0005	1-1-03	Amend	2-1-03
801-001-0010	1-1-03	Amend	2-1-03
801-001-0020	1-1-03	Amend	2-1-03
801-001-0030	1-1-03	Adopt	2-1-03
801-005-0010	1-1-03	Amend	2-1-03
801-010-0010	1-1-03	Amend	2-1-03
801-010-0045	1-1-03	Amend	2-1-03
801-010-0050	1-1-03	Amend	2-1-03
801-010-0060	1-1-03	Amend	2-1-03
801-010-0065	1-1-03	Amend	2-1-03
801-010-0075	1-1-03	Amend	2-1-03
801-010-0078	1-1-03	Amend	2-1-03
801-010-0079	1-1-03	Amend	2-1-03

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801-010-0080	1-1-03	Amend	2-1-03
801-010-0085	1-1-03	Amend	2-1-03
801-010-0100	1-1-03	Amend	2-1-03
801-010-0110	1-1-03	Amend	2-1-03
801-010-0115	1-1-03	Amend	2-1-03
801-010-0340	1-1-03	Amend	2-1-03
801-020-0620	1-1-03	Amend	2-1-03
801-020-0690	1-1-03	Amend	2-1-03
801-020-0710	1-1-03	Amend	2-1-03
801-020-0720	1-1-03	Amend	2-1-03
801-030-0020	1-1-03	Amend	2-1-03
801-040-0010	1-1-03	Amend	2-1-03
801-040-0030	1-1-03	Amend	2-1-03
801-040-0050	1-1-03	Amend	2-1-03
806-001-0003	7-1-03	Amend	5-1-03
806-010-0080	4-11-03	Amend	5-1-03
806-010-0090	1-15-03	Amend	2-1-03
806-010-0095	12-12-02	Amend	1-1-03
806-010-0105	1-15-03	Amend	2-1-03
806-010-0110	4-11-03	Amend	5-1-03
806-010-0145	1-15-03	Amend	2-1-03
808-001-0000	2-1-03	Amend	3-1-03
808-001-0005	2-1-03	Amend	3-1-03
808-001-0020	12-4-02	Amend	1-1-03
808-001-0020	2-1-03	Amend	3-1-03
808-001-0030	12-4-02	Amend	1-1-03
808-001-0040	2-1-03	Repeal	3-1-03
808-002-0220	12-4-02	Amend	1-1-03
808-002-0290	12-4-02	Adopt	1-1-03
808-002-0670	12-4-02	Amend	1-1-03
808-002-0670	12-4-02	Renumber	1-1-03
808-002-0680	12-4-02	Amend	1-1-03
808-003-0015	2-1-03	Amend	3-1-03
808-003-0020	2-1-03	Amend	3-1-03
808-003-0025	12-4-02	Amend	1-1-03
808-003-0035	2-1-03	Amend	3-1-03
808-003-0040	2-1-03	Amend	3-1-03
808-003-0045	2-1-03	Amend	3-1-03
808-003-0055	12-4-02	Amend	1-1-03
808-003-0060	2-1-03	Amend	3-1-03
808-003-0065	2-1-03	Amend	3-1-03
808-003-0070	12-4-02	Amend	1-1-03
808-003-0075	12-4-02	Amend	1-1-03
808-003-0081	12-4-02	Adopt	1-1-03
808-003-0085	12-4-02	Adopt	1-1-03
808-003-0095	2-1-03	Amend	3-1-03
808-003-0100	12-4-02	Amend	1-1-03
808-003-0105	2-1-03	Amend	3-1-03
808-003-0130	2-1-03	Amend	3-1-03
808-004-0120	12-4-02	Adopt	1-1-03
808-004-0180	12-4-02	Amend	1-1-03
808-004-0200	12-4-02	Am. & Ren.	1-1-03
808-004-0250	12-4-02	Amend	1-1-03
808-004-0260	12-4-02	Adopt	1-1-03
808-004-0320	12-4-02	Amend	1-1-03
808-004-0340	12-4-02	Amend	1-1-03
808-004-0440	12-4-02	Amend	1-1-03
808-004-0440	2-1-03	Amend	3-1-03
808-004-0450	12-4-02	Adopt	1-1-03
808-004-0460	12-4-02	Amend	1-1-03
808-004-0480	12-4-02	Amend	1-1-03
808-004-0500	12-4-02	Amend	1-1-03
808-004-0520	12-4-02	Amend	1-1-03
808-004-0540	12-4-02	Amend	1-1-03
808-004-0550	12-4-02	Amend	1-1-03
808-004-0560	12-4-02	Amend	1-1-03
808-004-0560	2-1-03	Amend	3-1-03
808-004-0580	12-4-02	Am. & Ren.	1-1-03
808-004-0590	2-1-03	Adopt	3-1-03
808-004-0600	12-4-02	Amend	1-1-03
808-005-0020	12-4-02	Amend	1-1-03
808-005-0030	12-4-02	Amend	1-1-03
808-008-0020	2-1-03	Amend	3-1-03
808-008-0030	2-1-03	Adopt	3-1-03
808-008-0040	2-1-03	Amend	3-1-03
808-008-0060	2-1-03	Amend	3-1-03
808-008-0080	2-1-03	Amend	3-1-03
808-008-0085	2-1-03	Adopt	3-1-03
808-008-0090	2-1-03	Adopt	3-1-03
808-008-0100	2-1-03	Amend	3-1-03
808-008-0110	2-1-03	Amend	3-1-03
808-008-0120	2-1-03	Amend	3-1-03
808-008-0140	2-1-03	Amend	3-1-03
808-008-0160	2-1-03	Amend	3-1-03
808-008-0180	2-1-03	Amend	3-1-03
808-008-0220	2-1-03	Amend	3-1-03
808-008-0300	2-1-03	Amend	3-1-03
808-008-0400	2-1-03	Amend	3-1-03
808-008-0420	2-1-03	Amend	3-1-03
808-008-0425	2-1-03	Adopt	3-1-03
808-008-0430	2-1-03	Adopt	3-1-03
808-008-0440	2-1-03	Amend	3-1-03
808-008-0460	2-1-03	Amend	3-1-03
808-008-0480	2-1-03	Amend	3-1-03
808-009-0020	12-4-02	Amend	1-1-03
808-009-0020	2-1-03	Amend	3-1-03
808-009-0070	12-4-02	Amend	1-1-03
808-009-0100	12-4-02	Amend	1-1-03
808-009-0120	12-4-02	Amend	1-1-03
808-009-0140	12-18-02	Amend	2-1-03
808-009-0160	12-4-02	Amend	1-1-03
808-009-0160	2-1-03	Amend	3-1-03
808-009-0200	2-1-03	Adopt	3-1-03
808-009-0220	12-4-02	Amend	1-1-03
808-009-0400	12-4-02	Amend	1-1-03
808-009-0400	2-1-03	Amend	3-1-03
808-009-0420	12-4-02	Amend	1-1-03
808-009-0420	2-1-03	Amend	3-1-03
808-009-0430	12-4-02	Adopt	1-1-03
808-009-0440	12-4-02	Amend	1-1-03
809-050-0030	12-2-02	Suspend	1-1-03
809-050-0030	4-4-03	Repeal	5-1-03

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812-001-0020	12-23-02	Amend	2-1-03
812-001-0020	3-11-03	Amend(T)	4-1-03
812-002-0480	3-4-03	Amend	4-1-03
812-004-0001	3-4-03	Amend	4-1-03
812-004-0300	3-4-03	Amend	4-1-03
812-004-0320	3-4-03	Amend	4-1-03
812-004-0325	3-4-03	Adopt	4-1-03
812-004-0340	3-4-03	Amend	4-1-03
812-004-0350	3-4-03	Adopt	4-1-03
812-004-0360	11-20-02	Amend	1-1-03
812-004-0520	3-4-03	Amend	4-1-03
812-004-0535	3-4-03	Adopt	4-1-03
812-004-0540	11-20-02	Amend	1-1-03
812-004-0540	3-4-03	Amend	4-1-03
812-004-0550	3-4-03	Amend	4-1-03
812-004-0560	11-20-02	Amend	1-1-03
812-004-0560	3-4-03	Amend	4-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03
812-006-0012	3-4-03	Amend	4-1-03
812-006-0050	3-4-03	Amend	4-1-03
812-008-0070	3-4-03	Amend	4-1-03
812-008-0072	11-20-02	Amend	1-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03
812-009-0020	11-20-02	Amend	1-1-03
812-009-0070	3-4-03	Amend	4-1-03
812-009-0100	3-4-03	Amend	4-1-03
812-009-0120	3-4-03	Amend	4-1-03
812-009-0160	11-20-02	Amend	1-1-03
812-009-0400	3-4-03	Amend	4-1-03
812-009-0440	3-4-03	Amend	4-1-03
812-010-0100	11-20-02	Amend	1-1-03
812-010-0100(T)	11-20-02	Repeal	1-1-03
812-010-0110	11-20-02	Amend	1-1-03
812-010-0110(T)	11-20-02	Repeal	1-1-03
812-010-0120	11-20-02	Amend	1-1-03
812-010-0120(T)	11-20-02	Repeal	1-1-03
812-010-0220	11-20-02	Amend	1-1-03
812-010-0420	11-20-02	Amend	1-1-03
812-010-0440	11-20-02	Amend	1-1-03
812-010-0440(T)	11-20-02	Repeal	1-1-03
813-008-0005	12-5-02	Amend	1-1-03
813-008-0010	12-5-02	Amend	1-1-03
813-008-0015	12-5-02	Amend	1-1-03
813-008-0020	12-5-02	Amend	1-1-03
813-008-0025	12-5-02	Amend	1-1-03
813-008-0030	12-5-02	Amend	1-1-03
813-008-0040	12-5-02	Adopt	1-1-03
813-047-0001	11-20-02	Amend(T)	1-1-03
813-047-0005	11-20-02	Amend(T)	1-1-03
813-047-0006	11-20-02	Adopt(T)	1-1-03
813-047-0010	11-20-02	Amend(T)	1-1-03
813-047-0015	11-20-02	Amend(T)	1-1-03
813-047-0020	11-20-02	Amend(T)	1-1-03
813-047-0025	11-20-02	Amend(T)	1-1-03
813-140-0000	11-25-02	Adopt	1-1-03
813-140-0000(T)	11-25-02	Repeal	1-1-03
813-140-0010	11-25-02	Adopt	1-1-03
813-140-0010(T)	11-25-02	Repeal	1-1-03
813-140-0020	11-25-02	Adopt	1-1-03
813-140-0020(T)	11-25-02	Repeal	1-1-03
813-140-0030	11-25-02	Adopt	1-1-03
813-140-0030(T)	11-25-02	Repeal	1-1-03
813-140-0040	11-25-02	Adopt	1-1-03
813-140-0040(T)	11-25-02	Repeal	1-1-03
813-140-0050	11-25-02	Adopt	1-1-03
813-140-0050(T)	11-25-02	Repeal	1-1-03
813-140-0060	11-25-02	Adopt	1-1-03
813-140-0060(T)	11-25-02	Repeal	1-1-03
813-140-0070	11-25-02	Adopt	1-1-03
813-140-0070(T)	11-25-02	Repeal	1-1-03
813-140-0080	11-25-02	Adopt	1-1-03
813-140-0080(T)	11-25-02	Repeal	1-1-03
813-140-0090	11-25-02	Adopt	1-1-03
813-140-0090(T)	11-25-02	Repeal	1-1-03
813-140-0100	11-25-02	Adopt	1-1-03
813-140-0100(T)	11-25-02	Repeal	1-1-03
813-140-0110	11-25-02	Adopt	1-1-03
813-140-0110(T)	11-25-02	Repeal	1-1-03
813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03
813-200-0001	11-20-02	Adopt(T)	1-1-03
813-200-0010	11-20-02	Amend(T)	1-1-03
813-200-0020	11-20-02	Amend(T)	1-1-03
813-200-0030	11-20-02	Amend(T)	1-1-03
813-200-0040	11-20-02	Amend(T)	1-1-03
813-200-0050	11-20-02	Amend(T)	1-1-03
813-200-0060	11-20-02	Amend(T)	1-1-03
813-205-0000	12-13-02	Adopt	1-1-03
813-205-0000(T)	12-13-02	Repeal	1-1-03
813-205-0010	12-13-02	Adopt	1-1-03
813-205-0010(T)	12-13-02	Repeal	1-1-03
813-205-0020	12-13-02	Adopt	1-1-03
813-205-0020(T)	12-13-02	Repeal	1-1-03
813-205-0030	12-13-02	Adopt	1-1-03
813-205-0030(T)	12-13-02	Repeal	1-1-03
813-205-0040	12-13-02	Adopt	1-1-03
813-205-0040(T)	12-13-02	Repeal	1-1-03
813-205-0050	12-13-02	Adopt	1-1-03
813-205-0050(T)	12-13-02	Repeal	1-1-03
813-205-0051	12-13-02	Adopt	1-1-03
813-205-0060	12-13-02	Adopt	1-1-03
813-205-0060(T)	12-13-02	Repeal	1-1-03
813-205-0070	12-13-02	Adopt	1-1-03
813-205-0070(T)	12-13-02	Repeal	1-1-03
813-205-0080	12-13-02	Adopt	1-1-03
813-205-0080(T)	12-13-02	Repeal	1-1-03
813-205-0090	12-13-02	Adopt	1-1-03
813-205-0090(T)	12-13-02	Repeal	1-1-03
813-280-0000	12-13-02	Adopt	1-1-03
813-280-0000(T)	12-13-02	Repeal	1-1-03
813-280-0010	12-13-02	Adopt	1-1-03
813-280-0010(T)	12-13-02	Repeal	1-1-03
813-280-0020	12-13-02	Adopt	1-1-03

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813-280-0020(T)	12-13-02	Repeal	1-1-03
813-280-0030	12-13-02	Adopt	1-1-03
813-280-0030(T)	12-13-02	Repeal	1-1-03
813-280-0040	12-13-02	Adopt	1-1-03
813-280-0040(T)	12-13-02	Repeal	1-1-03
813-280-0050	12-13-02	Adopt	1-1-03
813-280-0050(T)	12-13-02	Repeal	1-1-03
813-280-0060	12-13-02	Adopt	1-1-03
813-280-0060(T)	12-13-02	Repeal	1-1-03
813-280-0070	12-13-02	Adopt	1-1-03
813-280-0070(T)	12-13-02	Repeal	1-1-03
813-300-0005	4-4-03	Adopt	5-1-03
813-300-0005(T)	4-4-03	Repeal	5-1-03
813-300-0010	4-4-03	Adopt	5-1-03
813-300-0010(T)	4-4-03	Repeal	5-1-03
813-300-0020	4-4-03	Adopt	5-1-03
813-300-0020(T)	4-4-03	Repeal	5-1-03
813-300-0030	4-4-03	Adopt	5-1-03
813-300-0030(T)	4-4-03	Repeal	5-1-03
813-300-0040	4-4-03	Adopt	5-1-03
813-300-0040(T)	4-4-03	Repeal	5-1-03
813-300-0050	4-4-03	Adopt	5-1-03
813-300-0050(T)	4-4-03	Repeal	5-1-03
813-300-0060	4-4-03	Adopt	5-1-03
813-300-0060(T)	4-4-03	Repeal	5-1-03
813-300-0070	4-4-03	Adopt	5-1-03
813-300-0070(T)	4-4-03	Repeal	5-1-03
813-300-0080	4-4-03	Adopt	5-1-03
813-300-0080(T)	4-4-03	Repeal	5-1-03
813-300-0090	4-4-03	Adopt	5-1-03
813-300-0090(T)	4-4-03	Repeal	5-1-03
813-300-0100	4-4-03	Adopt	5-1-03
813-300-0100(T)	4-4-03	Repeal	5-1-03
813-300-0110	4-4-03	Adopt	5-1-03
813-300-0110(T)	4-4-03	Repeal	5-1-03
813-300-0120	4-4-03	Adopt	5-1-03
813-300-0120(T)	4-4-03	Repeal	5-1-03
813-300-0130	4-4-03	Adopt	5-1-03
813-300-0130(T)	4-4-03	Repeal	5-1-03
813-300-0140	4-4-03	Adopt	5-1-03
813-300-0140(T)	4-4-03	Repeal	5-1-03
813-300-0150	4-4-03	Adopt	5-1-03
813-300-0150(T)	4-4-03	Repeal	5-1-03
813-300-0160	4-4-03	Adopt	5-1-03
813-300-0160(T)	4-4-03	Repeal	5-1-03
813-300-0170	4-4-03	Adopt	5-1-03
813-300-0170(T)	4-4-03	Repeal	5-1-03
813-300-0180	4-4-03	Adopt	5-1-03
813-300-0180(T)	4-4-03	Repeal	5-1-03
820-010-0200	1-28-03	Amend	3-1-03
820-010-0202	3-14-03	Adopt	4-1-03
820-010-0305	12-3-02	Amend	1-1-03
820-010-0635	1-28-03	Amend	3-1-03
820-040-0040	1-28-03	Adopt	3-1-03
833-020-0015	12-16-02	Amend(T)	1-1-03
833-020-0040	12-16-02	Amend(T)	1-1-03
833-020-0060	12-16-02	Amend(T)	1-1-03
833-020-0090	12-16-02	Amend(T)	1-1-03
833-020-0111	12-16-02	Amend(T)	1-1-03
833-020-0130	12-16-02	Suspend	1-1-03
833-025-0001	12-16-02	Amend(T)	1-1-03
833-025-0005	12-16-02	Amend(T)	1-1-03
833-025-0006	12-16-02	Amend(T)	1-1-03
833-040-0001	12-16-02	Amend(T)	1-1-03
833-040-0010	12-16-02	Amend(T)	1-1-03
836-011-0100	11-27-02	Amend	1-1-03
836-011-0110	11-27-02	Amend	1-1-03
836-011-0120	11-27-02	Amend	1-1-03
836-011-0130	11-27-02	Amend	1-1-03
836-011-0140	11-27-02	Amend	1-1-03
836-011-0150	11-27-02	Amend	1-1-03
836-011-0160	11-27-02	Amend	1-1-03
836-011-0170	11-27-02	Amend	1-1-03
836-011-0180	11-27-02	Amend	1-1-03
836-011-0190	11-27-02	Amend	1-1-03
836-011-0200	11-27-02	Amend	1-1-03
836-011-0210	11-27-02	Amend	1-1-03
836-011-0220	11-27-02	Amend	1-1-03
836-011-0230	11-27-02	Amend	1-1-03
836-011-0500	11-27-02	Adopt	1-1-03
836-011-0505	11-27-02	Adopt	1-1-03
836-011-0510	11-27-02	Adopt	1-1-03
836-011-0515	11-27-02	Adopt	1-1-03
836-011-0520	11-27-02	Adopt	1-1-03
836-011-0525	11-27-02	Adopt	1-1-03
836-011-0530	11-27-02	Adopt	1-1-03
836-011-0535	11-27-02	Adopt	1-1-03
836-011-0540	11-27-02	Adopt	1-1-03
836-011-0545	11-27-02	Adopt	1-1-03
836-011-0550	11-27-02	Adopt	1-1-03
836-012-0000	11-27-02	Amend	1-1-03
836-012-0011	11-27-02	Amend	1-1-03
836-012-0021	11-27-02	Amend	1-1-03
836-012-0031	11-27-02	Amend	1-1-03
836-012-0041	11-27-02	Amend	1-1-03
836-012-0051	11-27-02	Amend	1-1-03
836-012-0060	11-27-02	Amend	1-1-03
836-012-0070	11-27-02	Amend	1-1-03
836-012-0080	11-27-02	Amend	1-1-03
836-012-0090	11-27-02	Amend	1-1-03
836-012-0100	11-27-02	Amend	1-1-03
836-020-0900	11-27-02	Am. & Ren.	1-1-03
836-043-0024	1-17-03	Amend	3-1-03
836-043-0044	1-17-03	Amend	3-1-03
836-052-0142	12-13-02	Amend	1-1-03
836-053-0005	7-1-03	Adopt	5-1-03
836-053-0021	11-27-02	Amend	1-1-03
836-053-0430	11-27-02	Amend	1-1-03
836-053-0440	11-27-02	Amend	1-1-03
836-054-0300	11-27-02	Amend	1-1-03
836-080-0425	6-1-03	Adopt	2-1-03
836-080-0430	6-1-03	Adopt	2-1-03

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836-080-0432	6-1-03	Adopt	2-1-03
836-080-0435	6-1-03	Adopt	2-1-03
836-080-0440	6-1-03	Adopt	2-1-03
836-081-0101	3-17-03	Adopt	5-1-03
836-081-0106	3-17-03	Adopt	5-1-03
836-081-0111	3-17-03	Adopt	5-1-03
836-081-0116	3-17-03	Adopt	5-1-03
836-081-0121	3-17-03	Adopt	5-1-03
836-081-0126	3-17-03	Adopt	5-1-03
837-012-0021	2-10-03	Repeal	3-1-03
837-012-0610	2-10-03	Amend	3-1-03
837-012-0615	2-10-03	Amend	3-1-03
837-012-0630	2-10-03	Amend	3-1-03
837-012-0635	2-10-03	Amend	3-1-03
837-012-0645	2-10-03	Amend	3-1-03
837-012-0720	2-10-03	Amend	3-1-03
837-012-0740	2-10-03	Amend	3-1-03
837-012-0760	2-10-03	Amend	3-1-03
837-012-0780	2-10-03	Amend	3-1-03
837-012-0790	2-10-03	Amend	3-1-03
837-012-0810	2-10-03	Amend	3-1-03
837-012-0820	2-10-03	Amend	3-1-03
837-012-0830	2-10-03	Amend	3-1-03
837-012-0835	2-10-03	Amend	3-1-03
837-012-0860	2-10-03	Amend	3-1-03
837-012-0865	2-10-03	Amend	3-1-03
837-012-0940	2-10-03	Amend	3-1-03
837-020-0040	12-6-02	Amend	1-1-03
837-020-0050	12-6-02	Amend	1-1-03
837-020-0060	12-6-02	Amend	1-1-03
837-020-0080	12-6-02	Amend	1-1-03
837-020-0125	12-6-02	Amend	1-1-03
837-110-0007	2-1-03	Adopt	2-1-03
837-110-0060	2-1-03	Amend	2-1-03
837-110-0070	2-1-03	Amend	2-1-03
837-110-0075	2-1-03	Adopt	2-1-03
837-110-0140	2-1-03	Amend	2-1-03
837-110-0150	2-1-03	Amend	2-1-03
837-110-0155	2-1-03	Adopt	2-1-03
839-016-0700	1-1-03	Amend	2-1-03
839-016-0700	2-14-03	Amend	3-1-03
839-016-0700	4-1-03	Amend(T)	5-1-03
839-016-0750	3-28-03	Amend(T)	5-1-03
845-004-0005	2-1-03	Amend	3-1-03
845-005-0327	4-1-03	Adopt	5-1-03
845-006-0345	4-1-03	Amend	5-1-03
845-006-0450	1-1-03	Amend	2-1-03
845-009-0140	4-1-03	Amend	5-1-03
845-015-0007	2-1-03	Am. & Ren.	3-1-03
845-015-0010	2-1-03	Am. & Ren.	3-1-03
845-015-0012	2-1-03	Am. & Ren.	3-1-03
845-015-0020	2-1-03	Am. & Ren.	3-1-03
845-015-0022	2-1-03	Am. & Ren.	3-1-03
845-015-0025	2-1-03	Am. & Ren.	3-1-03
845-015-0027	2-1-03	Am. & Ren.	3-1-03
845-015-0028	2-1-03	Am. & Ren.	3-1-03
845-015-0030	2-1-03	Am. & Ren.	3-1-03
845-015-0032	2-1-03	Am. & Ren.	3-1-03
845-015-0035	2-1-03	Renumber	3-1-03
845-015-0045	2-1-03	Renumber	3-1-03
845-015-0050	2-1-03	Renumber	3-1-03
845-015-0055	2-1-03	Am. & Ren.	3-1-03
845-015-0060	2-1-03	Renumber	3-1-03
845-015-0065	2-1-03	Am. & Ren.	3-1-03
845-015-0070	2-1-03	Am. & Ren.	3-1-03
845-015-0075	2-1-03	Am. & Ren.	3-1-03
845-015-0078	2-1-03	Am. & Ren.	3-1-03
845-015-0080	2-1-03	Am. & Ren.	3-1-03
845-015-0085	2-1-03	Repeal	3-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03
845-015-0090	2-1-03	Renumber	3-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03
845-015-0093	2-1-03	Renumber	3-1-03
845-015-0095	2-1-03	Renumber	3-1-03
845-015-0096	2-1-03	Renumber	3-1-03
845-015-0100	2-1-03	Renumber	3-1-03
847-001-0010	1-27-03	Amend	3-1-03
847-008-0005	1-27-03	Amend	3-1-03
847-010-0051	1-27-03	Amend	3-1-03
847-010-0052	1-27-03	Amend	3-1-03
847-010-0056	1-27-03	Amend	3-1-03
847-020-0170	1-27-03	Amend	3-1-03
847-035-0030	1-27-03	Amend	3-1-03
847-050-0020	1-27-03	Amend	3-1-03
847-050-0029	1-27-03	Amend	3-1-03
847-050-0042	1-27-03	Amend	3-1-03
847-080-0022	1-27-03	Amend	3-1-03
848-030-0000	2-6-03	Amend	3-1-03
850-010-0055	12-6-02	Adopt(T)	1-1-03
850-010-0055	4-11-03	Adopt	5-1-03
850-010-0195	2-14-03	Adopt	3-1-03
850-010-0210	12-10-02	Amend	1-1-03
851-001-0020	12-17-02	Adopt	2-1-03
851-031-0005	3-6-03	Amend	4-1-03
851-031-0006	3-6-03	Amend	4-1-03
851-031-0010	3-6-03	Amend	4-1-03
851-031-0025	3-6-03	Repeal	4-1-03
851-031-0030	3-6-03	Amend	4-1-03
851-031-0040	3-6-03	Amend	4-1-03
851-031-0045	3-6-03	Amend	4-1-03
851-031-0060	3-6-03	Amend	4-1-03
851-031-0070	3-6-03	Amend	4-1-03
851-031-0080	3-6-03	Amend	4-1-03
851-031-0085	3-6-03	Adopt	4-1-03
851-031-0086	3-6-03	Amend	4-1-03
851-031-0090	3-6-03	Amend	4-1-03
851-050-0131	12-17-02	Amend	2-1-03
851-050-0131	3-6-03	Amend	4-1-03
852-010-0027	12-18-02	Amend	2-1-03
852-010-0051	12-18-02	Amend	2-1-03
852-050-0005	12-18-02	Amend	2-1-03

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852-050-0018	12-18-02	Adopt	2-1-03
855-041-0065	1-14-03	Amend	2-1-03
855-041-0205	3-1-03	Amend	2-1-03
855-080-0021	1-14-03	Amend	2-1-03
855-110-0005	1-14-03	Amend	2-1-03
856-010-0010	2-26-03	Amend	4-1-03
856-010-0028	3-21-03	Adopt	5-1-03
860-012-0010	12-9-02	Amend	1-1-03
860-012-0035	3-11-03	Amend	4-1-03
860-014-0023	12-6-02	Adopt(T)	1-1-03
860-014-0023	3-11-03	Adopt	4-1-03
860-016-0050	12-9-02	Amend	1-1-03
860-021-0335	12-9-02	Amend	1-1-03
860-022-0070	4-14-03	Amend	5-1-03
860-027-0052	12-20-02	Amend	2-1-03
860-032-0001	2-12-03	Amend	3-1-03
860-032-0002	3-11-03	Amend	4-1-03
860-032-0005	3-11-03	Amend	4-1-03
860-032-0020	2-12-03	Amend	3-1-03
860-032-0610	12-9-02	Adopt	1-1-03
860-032-0620	12-9-02	Adopt	1-1-03
860-032-0630	12-9-02	Adopt	1-1-03
860-032-0640	12-9-02	Adopt	1-1-03
860-032-0650	12-9-02	Adopt	1-1-03
860-032-0660	12-9-02	Adopt	1-1-03
860-034-0250	12-9-02	Amend	1-1-03
860-034-0394	12-20-02	Amend	2-1-03
860-034-0740	12-20-02	Amend	2-1-03
860-036-0080	12-9-02	Amend	1-1-03
860-037-0075	12-9-02	Amend	1-1-03
863-001-0005	2-28-03	Amend(T)	4-1-03
863-015-0010	2-28-03	Amend(T)	4-1-03
863-015-0025	2-28-03	Amend(T)	4-1-03
863-015-0030	2-28-03	Amend(T)	4-1-03
863-015-0040	2-28-03	Amend(T)	4-1-03
863-015-0045	2-28-03	Amend(T)	4-1-03
863-015-0055	2-28-03	Amend(T)	4-1-03
863-015-0065	2-28-03	Amend(T)	4-1-03
863-015-0080	2-28-03	Amend(T)	4-1-03
863-015-0085	2-28-03	Amend(T)	4-1-03
863-015-0090	2-28-03	Amend(T)	4-1-03
863-015-0095	2-28-03	Amend(T)	4-1-03
863-015-0100	2-28-03	Amend(T)	4-1-03
863-015-0120	2-28-03	Amend(T)	4-1-03
863-015-0125	2-28-03	Amend(T)	4-1-03
863-015-0135	2-28-03	Amend(T)	4-1-03
863-015-0140	2-28-03	Amend(T)	4-1-03
863-015-0145	2-28-03	Amend(T)	4-1-03
863-015-0175	2-28-03	Amend(T)	4-1-03
863-015-0185	2-28-03	Amend(T)	4-1-03
863-015-0255	2-28-03	Amend(T)	4-1-03
863-015-0260	2-28-03	Amend(T)	4-1-03
863-025-0010	2-28-03	Amend(T)	4-1-03
863-025-0020	2-28-03	Amend(T)	4-1-03
863-025-0025	2-28-03	Amend(T)	4-1-03
863-025-0030	2-28-03	Amend(T)	4-1-03
863-025-0035	2-28-03	Amend(T)	4-1-03
863-025-0050	2-28-03	Amend(T)	4-1-03
863-025-0065	2-28-03	Amend(T)	4-1-03
918-001-0010	1-1-03	Amend	2-1-03
918-001-0036	1-1-03	Adopt	2-1-03
918-008-0100	1-1-03	Repeal	2-1-03
918-090-0900	1-1-03	Repeal	2-1-03
918-225-0240	3-14-03	Amend	4-1-03
918-225-0315	3-14-03	Adopt	4-1-03
918-225-0560	3-14-03	Amend	4-1-03
918-225-0562	7-1-03	Adopt	4-1-03
918-225-0610	1-1-03	Amend	2-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03
918-225-0660	3-14-03	Amend	4-1-03
918-225-0665	3-14-03	Adopt	4-1-03
918-225-0670	2-3-03	Amend	3-1-03
918-225-0690	7-1-03	Repeal	4-1-03
918-225-0691	7-1-03	Adopt	4-1-03
918-225-0700	7-1-03	Amend	4-1-03
918-225-0720	7-1-03	Amend	4-1-03
918-225-0740	7-1-03	Amend	4-1-03
918-225-0760	1-1-03	Repeal	2-1-03
918-225-0900	2-3-03	Adopt	3-1-03
918-225-0910	2-3-03	Adopt	3-1-03
918-225-0920	2-3-03	Adopt	3-1-03
918-225-0930	2-3-03	Adopt	3-1-03
918-225-0940	2-3-03	Adopt	3-1-03
918-225-0950	2-3-03	Adopt	3-1-03
918-225-0960	2-3-03	Adopt	3-1-03
918-225-0970	2-3-03	Adopt	3-1-03
918-251-0090	1-1-03	Amend	2-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03
918-282-0017	1-1-03	Adopt	2-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03
918-282-0185	1-1-03	Adopt	2-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03
918-282-0290	1-1-03	Amend	2-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03
918-307-0000	1-1-03	Repeal	2-1-03
918-308-0020	1-1-03	Amend	2-1-03
918-308-0020(T)	1-1-03	Repeal	2-1-03
918-308-0060	1-1-03	Amend	2-1-03
918-308-0060(T)	1-1-03	Repeal	2-1-03
918-308-0200	1-1-03	Amend	2-1-03
918-308-0200(T)	1-1-03	Repeal	2-1-03
918-308-0210	1-1-03	Amend	2-1-03
918-308-0210(T)	1-1-03	Repeal	2-1-03
918-309-0000	4-1-03	Amend	4-1-03
918-400-0280	1-1-03	Amend	2-1-03
918-400-0280	3-1-03	Amend	4-1-03
918-400-0280(T)	1-1-03	Repeal	2-1-03
918-400-0333	1-1-03	Adopt	2-1-03
918-400-0333(T)	1-1-03	Repeal	2-1-03
918-400-0335	1-1-03	Repeal	2-1-03
918-400-0340	1-1-03	Amend	2-1-03
918-400-0340(T)	1-1-03	Repeal	2-1-03

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918-400-0345	1-1-03	Repeal	2-1-03
918-400-0350	1-1-03	Repeal	2-1-03
918-400-0355	1-1-03	Repeal	2-1-03
918-400-0360	1-1-03	Repeal	2-1-03
918-400-0365	1-1-03	Repeal	2-1-03
918-400-0370	1-1-03	Repeal	2-1-03
918-400-0375	1-1-03	Repeal	2-1-03
918-400-0380	1-1-03	Adopt	2-1-03
918-400-0380(T)	1-1-03	Repeal	2-1-03
918-400-0385	1-1-03	Adopt	2-1-03
918-400-0385(T)	1-1-03	Repeal	2-1-03
918-400-0390	1-1-03	Adopt	2-1-03
918-400-0390(T)	1-1-03	Repeal	2-1-03
918-400-0395	1-1-03	Adopt	2-1-03
918-400-0395(T)	1-1-03	Repeal	2-1-03
918-400-0455	3-1-03	Amend	4-1-03
918-400-0465	3-1-03	Amend	4-1-03
918-400-0525	3-1-03	Amend	4-1-03
918-400-0630	3-1-03	Amend	4-1-03
918-400-0740	3-1-03	Amend	4-1-03
918-400-0780	1-1-03	Repeal	2-1-03
918-400-0800	1-1-03	Amend	2-1-03
918-400-0800(T)	1-1-03	Repeal	2-1-03
918-480-0005	4-1-03	Amend	2-1-03
918-480-0010	1-1-03	Amend	1-1-03
918-480-0010	1-10-03	Amend(T)	2-1-03
918-480-0010	4-1-03	Amend	2-1-03
918-480-0010(T)	1-1-03	Repeal	1-1-03
918-480-0020	4-1-03	Amend	2-1-03
918-650-0085	1-1-03	Repeal	2-1-03
918-785-0030	1-1-03	Repeal	2-1-03