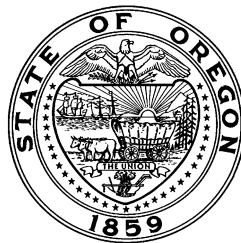


OREGON BULLETIN

Supplements the 2003 *Oregon Administrative Rules Compilation*

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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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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 03-14

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

In accordance with ORS 476.510-476.610, a threat to life, safety, and property exists, due to a conflagration fire known as the "B & B Complex Fire", in Jefferson and Linn Counties. Assistance with life, safety, and structural fire protection is needed and was requested by the Jefferson and Deschutes County Fire Defense Chiefs. In accordance with ORS 476.520, the resources necessary for protection of life and property from the fire are beyond local capabilities. Accordingly, I am invoking the Emergency Conflagration Act.

I made these findings at 12:10 p.m. on September 5, 2003, and now confirm by this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Conflagration Act to suppress and contain this fire.

This emergency is declared only for the B & B Complex Fire in Jefferson and Linn Counties, which occurred on September 2, 2003.

This order was made by verbal proclamation at 12:10 p.m. on the 5th day of September, 2003 and signed this 19th day of September, 2003, in Salem, Oregon.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 03-15

MENTAL HEALTH TASK FORCE

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

The Oregon mental health system provides treatment and supports to over 120,000 persons with mental disorders each biennium. Disorders such as schizophrenia, depression, bipolar disorder, Alzheimer's disease, the mental and behavioral disorders suffered by children, and a range of other mental disorders affect nearly one in five Oregonians in any year.

In recent years, awareness and knowledge of effective and evidence-based treatments for these disorders has grown. Simultaneously, Oregon's mental health policy has moved away from reliance on institutions and toward integrated community-based care.

Oregon's recent economic distress is impacting the State's public mental health system at both the state and community level. Although individuals interested in this system have worked diligently in recent years to identify barriers and propose solutions to better meet the needs of people of all ages with severe emotional and psychiatric disorders, the State's recent struggle to preserve services and supports for those individuals necessitates that that discussion begin anew.

A focused and collaborative analysis will enable Oregon to establish priorities for financially challenging times, target public funds to those most in need, improve quality of care, achieve greater efficiency in administration and service delivery, and assure Oregonians that their mental health system is effective and accountable. A blueprint for action is needed to guide the system in accomplishing these goals.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Mental Health Taskforce (the "Taskforce") is established. The Taskforce shall review, analyze, and recommend changes to the State of Oregon's public mental health system as may be needed to preserve and improve services and supports for people of all ages with severe emotional and psychiatric disorders.

2. The Taskforce shall consist of no more than twenty-one (21) members. All members of the Taskforce must have an interest and expertise in mental health services and financing. The persons responsible for appointing members of the Taskforce shall strive to ensure that the Taskforce's membership includes a diverse cultural and geographical cross-section of Oregonians. The members shall be selected as follows:

- a. The Governor or his designee shall be a member;
- b. The Director of the Department of Human Services or her designee shall be a member;
- c. The President of the Senate shall appoint one member of the Senate who is a member of the Democratic Party and shall appoint one member of the Senate who is a member of the Republican Party, in consultation with that party's leadership;
- d. The Speaker of the House of Representatives shall appoint one member of the House of Representatives who is a member of the Republican Party and shall appoint one member of the House of Representatives who is a member of the Democratic Party, in consultation with that party's leadership;
- e. The Governor shall appoint one member from each of the following organizations:
 - i. The Association of Oregon Community Mental Health Program Directors,
 - ii. The Oregon Chapter of the National Alliance for the Mentally Ill,
 - iii. The Oregon Health and Science University's Center on Self-Determination,
 - iv. The Oregon Psychiatric Association,
 - v. The Oregon Association of Hospitals and Health Systems,
 - vi. The Oregon Sheriff's Association, and
 - vii. The Psychiatric Security Review Board
- f. The Governor shall appoint up to eight additional members. These members shall have knowledge regarding the experience and treatment of severe emotional and psychiatric disorders and may include representatives of county mental health programs, persons in recovery from these disorders, family members of affected persons, legislators, advocates and/or service providers.

3. The Governor shall designate two members of the Taskforce as co-chairs.

EXECUTIVE ORDERS

4. The co-chairs shall establish an agenda for the Taskforce, and generally provide leadership and direction for the Taskforce.

5. A quorum for Taskforce meetings shall consist of a majority of the appointed members. The Taskforce shall strive to operate by consensus; however, the Taskforce may approve measures and make recommendations based on an affirmative vote of a majority of the quorum present.

6. The Taskforce shall provide a final report to the Governor's Office and to the Emergency Board of the Legislative Assembly no later than January 1, 2005. The report shall include the findings and recommendations of the Taskforce and an action plan for the implementation of those recommendations. Without limitation, the report shall:

a. Describe the key problems of Oregon's public mental health system, including community mental health and state hospital services and funding mechanisms, using qualitative and quantitative data to inform and guide expectations.

b. Identify needed improvements in the linkages among corrections, law enforcement, state hospitals and community mental health programs.

c. Include realistic objectives and measurable goals by which progress toward resolving identified problems can be monitored.

d. Include achievable outcomes that can be expected within the capabilities and limitations of the public mental health system and the constraints of the state's funding. The estimation of future results should assume system-wide implementation of evidence-based practices for children, adults and older adults.

e. Discuss the Taskforce's review of regional administration of mental health services as one strategy for achieving efficiency and clinical effectiveness in the delivery of mental health services, and steps that may be taken to implement regional arrangements.

7. In addition, the Taskforce shall collaborate with the Department of Human Services' Mental Health Advisory Board and the Governor's Council on Alcohol and Drug Abuse Programs to recommend

an action plan to inform and guide the development of the mental health plan required by ORS 430.640(1)(o).

8. The Taskforce shall be staffed by the Office of Mental Health and Addiction Services. In addition, the following state offices and agencies shall provide necessary support to the Taskforce:

a. Office of Mental Health and Addiction Services

b. Office of Medical Assistance Programs

c. Office of Multicultural Health

d. Office of Seniors and People with Disabilities

e. Office for Oregon Health Policy and Research

f. Oregon Department of Corrections

g. Oregon Youth Authority

h. Oregon Housing and Community Services

The directors of these state agencies or the administrators of the offices shall cooperate by providing information as needed and available, and by meeting with and reporting to the Taskforce as requested.

9. The members of the Commission shall not be entitled to the reimbursement of expenses or to the per diem provided in ORS 292.495.

10. This Order expires two years from the date of its issuance.

Done at Salem, Oregon, this 8th day of October, 2003.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

A CHANCE TO COMMENT ON... PROPOSED CONSENT DECREE FOR REMEDIAL ACTION COSTS AT THE FORMER HOY'S MARINE SITE IN NEWPORT, OREGON

COMMENTS DUE: November 30, 2003

PROJECT LOCATION: 4592 Yaquina Bay Road, Newport, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent decree with the Port of Newport and Ted Painter regarding a portion of DEQ's remedial action costs (cleanup costs) at the Hoy's Marine site in Newport, Oregon.

HIGHLIGHTS: The former Hoy's Marine site is an inactive shipyard repair and maintenance facility encompassing approximately three tax lots (3600, 3801 and 3802) and adjacent submerged lands in the Yaquina River. Use of a number of chemicals resulted in contamination to soils and marine sediments. DEQ performed a removal action at the site in 1999, has been performing additional investigation, and is planning to address remaining marine sediment contamination in 2003.

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 October 31, 2002. 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 Eugene Office, DEQ's Headquarters Office, and at the Newport 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 Decree will be made after consideration of public comments.

CHANCE TO COMMENT ON... THE PROPOSED STIPULATION AND CONSENT DECREE FOR THE NORTHWEST INDUSTRIES, INC. SITE

COMMENTS DUE: December 2, 2003

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to enter a Stipulation and Consent Decree with Ikon Office Solutions (IKON) and Northwest Industries, Inc. (NWI) regarding completion of the cleanup actions at 125 34th Avenue SW, Albany, Oregon, where NWI operates a specialty metal fabrication facility. DEQ is providing public notice and opportunity to comment on the proposed Stipulation and Consent Decree.

BACKGROUND: Past spills and disposal of waste trichloroethylene (TCE) to floor drains resulted in discharges to the soil and groundwater. DEQ has been overseeing investigations and clean up of the contamination at the NWI site since 1987. The TCE and associated volatile organic compounds have been reduced significantly as a result of the interim cleanup actions at NWI. The interim cleanup actions, a groundwater containment system and soil vapor extraction system, were installed in 1995 and 1999, respectively, and have operated ever since. The proposed Stipulation and Consent Decree details the requirements for implementing the selected cleanup remedy, which includes the following: Continued operation of the groundwater containment system; Continued operation of the existing soil vapor extraction system; Long-term monitoring of groundwater until specified end points are met; Confirmatory soil and soil vapor sampling; and Long-term review of groundwater use near the facility until contaminant concentrations no longer present an unacceptable risk to human health and the environment.

HOW TO COMMENT: The Stipulation and Consent Decree, and other records, are available for public review at DEQ's Eugene Office. To schedule an appointment, call (541) 686-7838. For ques-

tions and comments on the Decree, contact Project Manager Nancy Gramlich at (503) 378-8240, ext. 259, or by email at gramlich.nancy@deq.state.or.us

The TTY number for the hearing impaired is (541) 687-5603. Copies of written material in alternative format such as Braille, large print, or another language are available upon request.

THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the Stipulation and Consent Decree will be made after consideration of public comments.

CHANCE TO COMMENT... RECOMMENDATION FOR NO FURTHER ACTION

COMMENTS DUE: December 2, 2003

PROJECT LOCATION: DeStasio Heating Oil Release Site, 24499 Highway 99 West, Junction City, Oregon

PROPOSAL: Pursuant to ORS 465.230 and Oregon Administrative Rules (OAR) 340-122-465, the Department of Environmental Quality (DEQ) requests public comment on its recommendation that no further investigation or cleanup action be required at the DeStasio Heating Oil Release site, Junction City, Oregon.

HIGHLIGHTS: The DeStasio Heating Oil Release site is located at 24499 Highway 99 West, near Junction City, Oregon. Approximately 340 gallons of heating oil was released at the DeStasio's residence from a below-ground supply line between February and March 2000. Field observations and sampling confirmed that subsurface soil and shallow groundwater were impacted with heating oil in the backyard between the house and the garage. The two water supply wells for the property were located near the heating oil release.

In April 2000, approximately 20 cubic yards of soil and approximately 600 gallons of water and free product were removed from the excavation and test pits. In August 2000, an additional 144 cubic yards of soil was removed from the backyard and replaced with clean fill.

Due to the heating oil found in shallow groundwater near the two water supply wells, in July and October 2000, two new supply wells were installed approximately 275 feet north and northeast of the release area. The original supply wells were decommissioned in April 2001.

In June 2000, four monitoring wells were installed to monitor groundwater conditions at the site. Two additional monitoring wells were installed in March 2001 to further evaluate the extent of the groundwater impact to the north and northeast of the release area. Groundwater samples have been collected thirteen times between June 2000 and August 2003. Sample results indicated that residual concentrations of heating oil constituents in groundwater have decreased over time and have been below appropriate cleanup levels for the last two consecutive sampling rounds (i.e., wet and dry sampling seasons).

Laboratory results from soil and groundwater samples indicate that residual heating oil constituents remain on site, but the concentrations are below residential cleanup levels. Hence, DEQ considers the investigation and cleanup at the DeStasio Heating Oil Release site to be complete, and is recommending that no further action be required at the site.

HOW TO COMMENT: The project files are available for review at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene. Written comments should be submitted to Mary Camarata at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene 97401, by December 2, 2003. Questions may also be directed to Ms. Camarata at that address, via e-mail at camarata.mary@deq.state.or.us, or by calling her at 1-800-844-8467, ext. 259. The TTY number for the hearing impaired is (541) 687-5603.

THE NEXT STEP: DEQ will consider all comments received before taking final action on this matter.

OTHER NOTICES

PUBLIC COMMENT PERIOD PROPOSED FINAL CLEANUP ACTIONS OREGON STATE PENITENTIARY (OSP) SITE SALEM, OREGON

COMMENTS DUE: December 12, 2003

PROJECT LOCATION: Oregon State Penitentiary (OSP) Site, 2605 State Street, Salem, Oregon

BACKGROUND: DEQ is proposing the final cleanup actions for the Oregon State Penitentiary (OSP) facility located at 2605 State Street in Salem. The Department of Corrections (DOC) has been conducting environmental investigation and cleanup activities under DEQ oversight since 1989. Solvents that leaked from a dry cleaner facility inside the prison contaminated groundwater beneath the prison. Dry cleaning solvent, known as tetrachlorethene or PCE, was first found in water supply wells at the prison in 1989. DOC began investigating the extent of contamination and found that groundwater contamination extends from inside the prison towards Walker Park and into the nearby residential neighborhood.

In January 2000, DOC installed a cleanup system that treats contaminated groundwater. The system was designed to prevent further movement of contaminated groundwater away from the prison, and remove contaminants from the groundwater. This cleanup system has proven to be effective at stopping movement of contaminant groundwater into the neighborhoods and reducing solvent concentrations in groundwater.

Recently, DOC completed a Feasibility Study to assess long term alternatives for addressing the remaining contamination at the Site. Some groundwater at OSP and in the neighborhood contains concentrations of solvents that could pose future risk if groundwater were used for domestic water supply. However, OSP and residents in the neighborhood currently use city water and the groundwater poses no risk to the neighborhood.

DEQ's proposed remedial cleanup actions are outlined in a Remedial Action Recommendation Staff Report. This Staff Report will be available for public review and comment for a 30 day period in November 2003. The components of the recommended cleanup actions are summarized below.

PROPOSED ACTIONS: DEQ is proposing several actions at the OSP Site that will protect workers, inmates, and adjacent property owners from solvents at the Site. These measures would include: 1) continue operating the groundwater cleanup system, 2) groundwater monitoring to confirm that contamination levels are continuing to decline towards the cleanup goal, 3) periodically review of groundwater use in the adjacent off-site neighborhoods to confirm the assumption that off-site groundwater is not being used in the future, and 4) development of contingency plans.

HOW TO COMMENT: The Staff Report will be available at DEQ's Salem and Eugene offices, and at the Salem Public Library. There will also be a copy available on DEQ's web site at (<http://www.deq.state.or.us/wmc/cleanup/cuospfact.htm>). Written comments must be received by December 12, 2003. Comments should be submitted to DEQ's Eugene office, located at 1102 Lincoln St., Suite 210, Eugene, OR 97401. Questions may also be directed to Mary Camarata at that address or by calling her at 1-800-844-8467 ext 259. The TTY number for the hearing impaired is 541-687-5603.

THE NEXT STEP: DEQ will consider all public comments on the proposed remedial action prior to selecting the final remedial actions in a Record of Decision (ROD). A public meeting will be held to receive verbal comments on the proposed cleanup action if there is significant interest in the project.

PUBLIC COMMENT PERIOD PROPOSAL TO DELIST TAX LOT 10600 FORMER CONSUMERS POWER FACILITY SW CORNER OF NW SPRUCE AND NW 9TH STREET CORVALLIS, OREGON

COMMENTS DUE: December 1, 2003

PROJECT LOCATION: Near southwest corner of NW Spruce and NW 9th Street, Corvallis, Oregon

PROPOSAL: The Department of Environmental Quality is proposing to delist Tax Lot 10600 of the Former Consumers Power Facility from the Confirmed Release List and Inventory. Public notification is required by OAR 340-122-007.

HIGHLIGHTS: The former Consumers Power facility operated from 1954 to 1976 at the southwest corner of NW Spruce and NW 9th Street, Corvallis, Oregon. Past practices on the site released pentachlorophenol, polychlorinated biphenyls and dioxin contamination into the soils. Tax Lot 10600 is a portion of the entire site located to the west of the current Office Max location. This area was outside the vicinity of Consumers Power former site operations areas. DEQ's proposes to delist the site from the Confirmed Release List and Inventory because soil concentrations on Tax Lot 10600 do not exceed health standards.

Detailed information is provided in a letter report from James Brown and Associates dated October 14, 1999 which may be viewed at DEQ's Eugene Office, 1102 Lincoln St., Suite 210 or by calling and requesting a review copy.

HOW TO COMMENT: Written comments on the proposed delisting may be submitted to Angie Obery at DEQ's Eugene office, 1102 Lincoln St., Suite 210, Eugene, OR 97401. Comments must be received by December 1, 2003. Questions may be directed to Angie Obery by calling her at 1800-844-8467 x265.

A public meeting to answer questions and receive verbal comment on the proposed no further action will be held if there is significant public interest.

THE NEXT STEP: DEQ will consider all public comments prior to making a final decision.

UMATILLA CHEMICAL DEPOT PUBLIC INVITED TO COMMENT ON A PROPOSED CLEANUP PLAN

Umatilla Chemical Depot (UMCD) has recently completed investigation and study of the former Quality Assurance Function Range (Site 39). The results and recommended cleanup actions are summarized below.

The investigation found ordnance items and ordnance related scrap metal in the top 2 feet in a former rifle range and test pad areas and non-ordnance metal debris to a depth of 4 feet in a test pit area. The recommended cleanup alternative is to excavate soil to find and remove the ordnance and metallic debris then backfill and reseed the excavations. The alternative also includes soil removal and sifting to a depth of 2 feet near the Test Pads. Ordnance items and metal debris found during the excavation and soil sifting will be safety inspected, collected and transported to a scrap metal recycler for smelting. Your comments are important to us. The full version of the proposed cleanup plan and supporting documents are on file for your review at the locations listed below.* The Army, U.S. Environmental Protection Agency and Oregon's Department of Environmental Quality invite your comments on the plan and to attend a public meeting to comment on the cleanup proposals. Written comments will be taken between October 20th and November 21st. Please send your comments to:

Mr. Mark Daugherty
Umatilla Chemical Depot
Hermiston, OR 97838-9544
(541) 564-5294

Public Meeting

WHEN: Wednesday, November 5, 6:30 – 8:00 p.m.

WHERE: Armand Larive Junior High School
199 E. Ridgeway, Hermiston, Oregon

PURPOSE: To explain and discuss the proposed plan and record written and verbal comments from the public

OTHER NOTICES

*Copies of the proposed plan and supporting documents can be reviewed at: Hermiston Public Library, 213 Gladys; Umatilla Chemical Depot Environmental Office, Hermiston, OR; and Oregon Department of Environmental Quality, Columbia Gorge Community College, 400 E. Scenic, Suite 2, Rm 307, The Dalles, OR. If you need additional information, call Ms. Mary Binder, UMCD Public Affairs Office, (541) 564-5312. This notice complies with the public notice and participation requirements of CERCLA and the National Environmental Policy Act.

PROPOSED APPROVAL OF CLEANUP AT TILLAMOOK MUSIC, 207 MAIN AVENUE TILLAMOOK, OREGON

COMMENTS DUE: December 3, 2003

PROJECT LOCATION: 207 Main Avenue in Tillamook, Oregon
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 the "No Further Action" (NFA) determination proposed for the investigation and cleanup of petroleum-contaminated soils at the Tillamook Music site in Portland, Oregon.

HIGHLIGHTS: In November 1997, DEQ received a complaint of diesel heating oil leaking into the basement below a clothing store in the IOOF building on Main Avenue in Tillamook. The source was determined to be an active, underground heating-oil tank serving the adjacent Tillamook Music store. The 650-gallon tank was removed and 1.75 tons of contaminated soil was removed before backfilling the tank pit. There were complaints of diesel vapors entering the IOOF building and a mechanical vapor extraction system was installed in the basement in the summer of 1998 to prevent vapor intrusion. The site owners began, and DEQ continued an investigation of the extent of contamination. Soil, groundwater, storm water, and indoor air samples were collected for analysis and a risk assessment was completed. There is no evidence that contamination is entering the storm water line in Main Avenue (Highway 101). The results indicate that the remaining soil and groundwater contamination does not pose an unacceptable risk to human health and the environment. If the storm water line in Main Avenue is excavated there is a possible risk to excavation workers who may have extended contact with groundwater.

DEQ has concluded that there are no unacceptable risks for human receptors that may be exposed to contamination present in soil and groundwater at the site, and that further soil removal or remediation is not warranted. The cleanup action is considered protective of human health and the environment, and therefore, meets the requirements of the Oregon Environmental Cleanup Laws.

HOW TO COMMENT: DEQ's Staff Report, dated October 7, 2003, and other project file information is 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 Gerald Gamolo at 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Please send written comments to Robert Williams, Project Manager, at the address listed above or via email at Williams.robert.k@deq.state.or.us. DEQ must receive written comments by 5 pm on December 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 December 3, 2003 deadline. In the absence of comments, DEQ will issue the No Further Action determination.

PROPOSED APPROVAL OF CLEANUP AT MARVIN WOOD UIC BAKER COUNTY, OREGON

COMMENTS DUE: November 28, 2003

PROJECT LOCATION: 3665 17th Street in Baker City, Oregon
PROPOSAL: The Department of Environmental Quality is proposing to issue a "No Further Action" determination based on results of site investigation performed at the Marvin Wood Products site located at 3665 17th Street in Baker City, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site related to the six dry wells decommissioned as part of Marvin Wood Products' process to bring the facility's storm water injection system into compliance. Sediment samples were collected from the bottom of two dry wells prior to their abandonment. Oil, grease, toluene, and aluminum were detected. The bottom sediments were removed prior to abandonment of the dry wells. The site investigation's purpose was to determine if soil and groundwater had been impacted in the vicinity of the two dry wells. Aluminum and toluene were the specific compounds of concern. Two soil probes were installed at the site in July 2003 near Dry Well 1 and Dry Well 8. Groundwater was encountered between 15 feet below ground surface (bgs) and 17.5 feet bgs. Petroleum hydrocarbons were not detected in the soil samples. With the exception of benzene detected in boring B-1 (near Dry Well 1) all compounds detected in groundwater were less than their respective EPA Region 9 PRGs. The benzene detected in the groundwater from Boring B-1 is likely related to a petroleum release from the nearby former Chevron Bulk Plant. The Chevron Bulk Plant release has been documented in this area at similar concentrations.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by November 28, 2003 and sent to Katie Robertson, Project Manager, at the address listed above.

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

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

PROPOSED APPROVAL OF CLEANUP OREGON BULB & PERENNIAL FARMS SITE 39391 SE LUSTED ROAD, SANDY, OREGON

COMMENT PERIOD: November 1 to 30, 2003

COMMENTS DUE: November 30, 2003

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to approve a cleanup of pesticide-contaminated soil at the Oregon Bulb & Perennial Farms site.

HIGHLIGHTS: Several phases of environmental testing have been performed at the site, identifying pesticide constituents in site soil. The cleanup actions, described in the Record of Decision signed on April 30, 2003, included deed restrictions and excavation and off-site disposal of contaminated soil.

DEQ recommends that the remedy be approved and no further action required at the site.

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

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

OTHER NOTICES

PROPOSED APPROVAL OF SELECTED REMEDY AT MAR COM NORTH PARCEL IN PORTLAND, OREGON.

COMMENTS DUE: December 1, 2003

PROJECT LOCATION: 8970 North Bradford Street, Portland, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the approval of a proposed remedy on the north parcel of the Mar Com Ship Repair Facility in Portland, Oregon.

HIGHLIGHTS: The Mar Com Ship Repair Facility is located along the Willamette River and has been the site of ship building and repair operations since the early 1900s. Mar Com investigated environmental conditions on the uplands portion of the north parcel at its facility between 2000 and 2003. Soil and groundwater conditions are unremarkable on the site, but spent sandblast grit was deposited on the site over the years and presents an unacceptable risk. DEQ recommends that the grit be removed and properly disposed as a final remedy on the north parcel. The investigation of the south parcel is ongoing. A Source Control Decision Memorandum, summarizing the basis for DEQ's proposal, is available for public review beginning November 1, 2003.

HOW TO COMMENT: To schedule an appointment at DEQ, contact Deborah Curtiss at 503-229-6361. The DEQ project manager is Alicia C. Voss (503-229-5011). Written comments should be sent to the project manager at DEQ, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 by December 1, 2003. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with membership of 10 or more.

THE NEXT STEP: DEQ will consider all public comments and the Regional Administrator will make a final decision after consideration of these public comments.

PROPOSED REMOVAL ACTION FORMER BURNS AIR FORCE RADAR STATION HARNEY COUNTY, OREGON

COMMENTS DUE: November 30, 2003

PROJECT LOCATION: Burns Butte, 3.5 miles SE of Burns (T23S, R30E, S20)

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to conduct a removal action at the former Burns Air Force Site, Harney County Oregon. Prior to selecting a removal action DEQ is providing an opportunity for public comment on the proposed cleanup action. A Focused Feasibility Study (FFS) report is available for public review. The FFS provides the basis for the recommended cleanup action at the site.

HIGHLIGHTS: The Eastern Region Cleanup Program has reviewed available information for this site which includes an Oregon Department of Human Services health consultation report dated May 2003. The site is a formerly used defense site and presents potential public health hazards due to the presence asbestos containing material (ACM) and physical hazards. These hazards are associated with the remnant structures and facilities at the site.

The site is abandoned and DEQ has identified the site as an Orphan Site. An Orphan site designation is made when parties potentially responsible for cleanup (e.g. owner/operator) are either unwilling, unknown, or unable to pay for cleanup. DEQ is proposing to use Orphan site funds to undertake cleanup of this site. DEQ has prepared a FFS which provides the basis of the recommended cleanup action. Each removal alternative was evaluated to assess its protectiveness based primarily on the standards in OAR 340-122-040, and the balancing factors outlined in OAR 340-122-090(3) and (4). Potential removal action alternatives outlined in the FFS include the following alternatives; No action, fence and stabilize the site, demolition of structures and on-site disposal of ACM and solid waste and

demolition of structures and off-site disposal of ACM and solid waste.

HOW TO COMMENT: The FFS is available for public review at the Burns library and can also be found online at <http://www.deq.state.or.us/wmc/psrasp/ecdORSites.asp>. Written comments on the FFS and the proposed cleanup action should be submitted to DEQ and received by COB November 30, 2003. Please send written comments to Brian McClure, Project Manager, at 400 East Scenic Drive #2.307, The Dalles, OR 97058. Telephone comments or questions can be directed to Mr. McClure at (541) 298-7255 ext 32. Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision regarding the proposed cleanup action at this site.

PROPOSED REMEDIAL ACTION FOR UNOCAL BULK PLANT, KLAMATH FALLS, OR

COMMENTS DUE: November 30, 2003

PROJECT LOCATION: 1459 S. Sixth St, Klamath Falls, 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 operated as a bulk petroleum product distribution facility between 1917 and 1991. The facility was decommissioned and is currently a vacant lot. A leak was discovered in one of the above ground storage tanks in 1989. Various petroleum products including gasoline, diesel, and kerosene was dispensed from the facility. Monitoring of the shallow groundwater beneath the site indicate separate phase gasoline and diesel and dissolved phase gasoline constituents are present within the locality of the facility. Gasoline includes benzene, a known carcinogen, and diesel contains poly-nuclear aromatic hydrocarbons (PAHs), so of which are also suspected carcinogens. The soil beneath the southern two-thirds of the site and extending about 50 feet beyond the property boundary also contains gasoline and diesel related constituents. A product recovery system was installed at the site in April 1996 as an interim removal action to remove product. To date approximately 320 gallons of product have been removed. Approximately 4000 gallons of product remain, mostly in an immobile state within the soil column. A site specific risk assessment was conducted for the industrial site and the concluded that the remaining free product posed an unacceptable risk for the on-site trench worker scenario. The area containing the free product also meets the definition of a hot spot of contamination.

Based on the remedial action objectives a feasibility study (FS) was conducted to determine the least costly protective remedy for the site, considering a higher cost threshold for the hot spot of contamination. The results of the FS evaluation have resulted in the recommending the following remedial action alternative for the site: 1) Soil Excavation with product skimming, 2) On-Site Thermal Treatment of Soils, 3) Periodic Groundwater monitoring of the area and 4) Restrict land use to industrial uses. If implemented as proposed it is believed that this alternative will achieve protective conditions at the site 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 December 1, 2003 to Mr. Scott at the address listed above. Questions may also be directed to Mr. Scott by calling him directly.

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

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

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 Architect Examiners
Chapter 806**

Date: 11-24-03 **Time:** 9 a.m. **Location:** Architect Board
750 Front St. NE, #260
Salem, OR

Hearing Officer: Kim Arbuckle

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.020 & 671.025

Proposed Amendments: 806-010-0045

Last Date for Comment: 11-24-03, 4:30 p.m.

Summary: This rule amendment allows the optional use of a license number on an architect's stamp, identifies the type of stamp authorized by the Board, clarifies the purpose of the stamp and signature, identifies what does not meet the definition of "direct control and supervision" and creates a process that can be used by clients/successor architect in the event of the death or permanent disability of an architect.

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

Rules Coordinator: Carol Halford

Address: Oregon Board of Architect Examiners, 750 Front St. NE, Suite 260, Salem, OR 97301

Telephone: (503) 378-4270

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Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 183.341, 671.090, 671.100 & 671.105

Proposed Amendments: 806-001-0004, 806-001-0005

Last Date for Comment: 11-24-03, 4:30 p.m.

Summary: This is a housekeeping rule amendment to use the correct title of the AG's Model Rules of Procedure under the APA in adopting its use.

Rules Coordinator: Carol Halford

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

Telephone: (503) 378-4270

Board of Chiropractic Examiners Chapter 811

Date: 11-20-03 **Time:** 1 p.m. **Location:** OBCE Conference Rom.
3218 Pringle Rd. SE
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: 11-20-03

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 fee schedule to birth date renewal schedule.

811-010-0110 Makes changes to the annual registration process for CCA's. Changes from annual fee schedule to 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 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: 11-28-03

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: Amino glycosides and Fluoroquinolones.

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 Parole and Post-Prison Supervision
Chapter 255**

Stat. Auth.: ORS 144.102, 144.270 & 137.540

Stats. Implemented:

Proposed Amendments: 255-070-0001

Last Date for Comment: 11-28-03

Summary: The amendment is necessary so that the board's rule and exhibit will be consistent with the Oregon Revised Statutes.

Rules Coordinator: Michael R. Washington

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

Telephone: (503) 945-9009

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**Board of Radiologic Technology
Chapter 337**

Date: 11-18-03 **Time:** 10 a.m. **Location:** 800 NE Oregon St.
Rm. 445
Portland, OR

Hearing Officer: Lianne Thompson

Stat. Auth.: ORS 688.555(1)

Stats. Implemented: ORS 688.445

Proposed Adoptions: 337-020-0010

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 337-021-0050

Last Date for Comment: 12-15-03

Summary: In order to assist its licensees, the board has proposed specific language to clarify timelines for license renewal. The language is contained in OAR 337-020-0010. At the direction of the Legislature, the board no longer either charges a special fee for or provides expedited service to approve, renew, or reinstate a license or limited permit. This requires repeal of OAR 337-021-0050.

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

Rules Coordinator: Lianne Thompson

Address: Board of Radiologic Technology, 800 NE Oregon St. - Suite 407, Portland, OR 97232

Telephone: (503) 731-4088, ext. 21

Construction Contractors Board Chapter 812

Date:	Time:	Location:
12-2-03	11 a.m.	West Salem Roth's IGA Santiam Rm.

Hearing Officer: Jim Fairchild

Stat. Auth.: ORS 87.093, 183.310 to 183.500, 670.310, 701.055, 701.235 701.280 & 701.992

Stats. Implemented: ORS 87.093, 183, 183.415, 183.460, 279.323, 670.600, 701, 701.005, 701.010, 701.055, 701.065, 701.075, 701.080, 701.085, 701.102, 701.105, 701.115, 701.135, 701.139, 701.140, 701.143, 701.145, 701.146, 701.147, 701.148, 701.139 to 701.180, 701.175, 701.225, 701.227, 701.280, 701.992 & chapter 294, OL 2003

Proposed Adoptions: 812-002-0130, 812-002-0327, 812-004-0110, 812-004-0210, 812-010-0025, 812-010-0050, 812-010-0290, 812-010-0510, 812-010-0520

Proposed Amendments: 812-001-0020, 812-002-0200, 812-002-0380, 812-002-0420, 812-002-0440, 812-002-0540, 812-003-0000, 812-003-0015, 812-003-0020, 812-003-0025, 812-004-0320, 812-004-0340, 812-004-0400, 812-004-0535, 812-005-0005, 812-006-0020, 812-010-0020, 812-010-0030, 812-010-0060, 812-010-0085, 812-010-0140, 812-010-0280, 812-010-0400, 812-010-0420, 812-010-0425, 812-010-0430, 812-010-0440, 812-010-0460, 812-010-0500

Proposed Repeals: 812-002-0240, 812-010-0240

Last Date for Comment: 12-2-03

Summary: OAR 812-001-0020 is amended to add the "Notice of Compliance with Homebuyer Protection Act" required in HB 3539.

OAR 812-002-0130 is adopted to add a new definition to define claimant as this term is used throughout OAR 812 Division 4. OAR 812-002-0200 is amended to include suspensions and lapses to the definition to concur with current agency practices. OAR 812-002-0240 is repealed since the definition of "developer" is no longer necessary once SB 906 became operative on October 1, 2003. 812-002-0327 is adopted to add a definition to clarify how "ground area" of structure that is measured for purposes of determining if the structure is a "small commercial structure." OAR 812-002-0380 is amended to accurately define the type of liability insurance required by the agency. OAR 812-002-0420 is amended to include suspended licenses under the definition of "lapse in license". 812-002-0440 is amended to include claimants in the coverage of the definition of "last-known address" of record. OAR 812-002-0540 is amended to delete the word "developer" from the definition of "owner of a structure" which was no longer necessary once SB 906 became operative and defines a developer as a contractor.

OAR 812-003-0000 is amended to implement SB 906 that became operative on October 1, 2003, and amends ORS 701.005 by adding a new licensed developer category to the statutes and to provide notice to consumers if licensed contractors are insured by policies that have non-standard exclusions. OAR 812-003-0015 is amended to define the type of insurance providers authorized by the agency

and to clarify the type of insurance coverage. OAR 812-003-0020, and 812-003-025 are amended to implement SB 906 that became operative on October 1, 2003, and amends ORS 701.005 by adding a new licensed developer category to the statutes. OAR 812-003-0015 is amended to define the type of insurance providers authorized by the agency and to clarify the type of coverage required.

812-004-0110 is adopted to implement HB 2233 (chapter 294, Oregon Laws 2003) to collect a fee for processing claims of \$50. 812-004-0210 is adopted to require parties to notify the agency of address changes during the processing of a claim. 812-004-0320 is amended to allow claims for defective work filed by an unlicensed contractor to comply with Ors 701.065 as amended in 2003. Limits the bar to claim filing by an unlicensed contractor to a claim for unpaid fees. Adds a provision to allow dismissal where evidence in the file shows claimant failed to provide the pre-claim notice required under HB 2233 (chapter 294, Oregon Laws 2003). Allows filing a second claim containing the same allegations as an earlier claim under certain circumstances. 812-004-0340 is amended to provide a more specific description of the information required on the location of the work involved in the claim and to implement HB 2233 requirements for pre-claim notice. 812-004-0400 is amended to implement HB 2233 (chapter 294, Oregon Laws 2003) to charge a processing fee. 812-004-0535 is amended to provide for the consideration of contract defenses in the evaluation of whether to award damages on a claim.

OAR 812-005-0005 is amended to implement the provisions of SB 906.

OAR 812-006-0020 is amended to delete pre-July 1, 2002 language that is no longer needed.

812-010-0020 is amended to replace the citation to repealed arbitration provision with new citation to the Revised Uniform Arbitration Act and to update provisions related to effective dates of these amendments to rules. 812-010-0025, 812-010-0050, 812-010-0060, 812-010-0140, 812-010-0430, 812-010-0440, 812-010-0460, 812-010-0500, 812-010-0510, and 812-010-0520 are adopted to implement HB 2279 (chapter 598, Oregon Laws 2003). 812-010-0030 is amended to change the title "hearings officer" to "administrative law judge" and to correct cites. 812-010-0085 is amended to include reference to the new OAR 812-004-0210 that requires parties to notify agency of changes in address. 812-010-0240 is repealed because chapter 598, Oregon Laws 2003 does not require oaths any longer. 812-010-0280 is amended to implement HB 2279 (chapter 598, Oregon Laws 2003). 812-010-0290 is adopted to implement HB 2279 (chapter 598, Oregon Laws 2003). 812-010-0400 is amended to delete the certified mail requirement. 812-010-0420 is amended to correct the cite. 812-010-0425 is amended to require delivery to the CCB as well as the arbitrator of a petition to vacate, modify or correct an award.

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

Rules Coordinator: Cathy Heine

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

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

Department of Administrative Services, Budget and Management Division Chapter 122

Stat. Auth.: ORS 184.340; Other Auth.: ORS 286-580 & 310.140

Stats. Implemented: ORS 283.085 - 283.092

Proposed Adoptions: 122-070-0065

Proposed Amendments: 122-070-0000, 122-070-0010, 122-070-0030, 122-070-0060, 122-070-0070, 122-070-0080

Last Date for Comment: 11-21-03, 5 p.m.

Summary: Adopt OAR 122-070-0065 to clarify needs in managing tax exempt bond proceeds to insure compliance with all federal tax code requirements to maintain tax-exempt under federal law.

NOTICES OF PROPOSED RULEMAKING

Amend other rules to include current programs administered by the Capital Investment Section, correct for changes in the requirements associated with Oregon tax-exempt debt and adjust fees for debt issuance that have not changed since 1996.

These rules are being re-filed because, although public notice was sent to interested parties, it was not published in the Oregon Bulletin.

Rules Coordinator: Mary Unger

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

Department of Administrative Services, Public Employees' Benefit Board Chapter 101

Date:	Time:	Location:
11-17-03	9 a.m.	Hearing Rm. 50 State Capitol Bldg. Salem, OR

Hearing Officer: Mylia Christensen

Stat. Auth.: ORS 243.061 - 243.302; Other Auth.: ORS 279

Stats. Implemented: ORS 243, 659 & 743

Proposed Adoptions: 101-001-0020, 101-005-0010, 101-005-0020, 101-005-0030, 101-005-0040, 101-005-0050, 101-005-0060, 101-005-0070, 101-005-0080, 101-005-0090, 101-005-0100, 101-005-0110, 101-005-0120, 101-005-0130, 101-005-0140, 101-006-0010, 101-006-0020, 101-030-0022, 101-040-0080

Proposed Amendments: 101-010-0005, 101-020-0010, 101-020-0015, 101-020-0018, 101-020-0020, 101-020-0030, 101-020-0035, 101-020-0040, 101-030-0005, 101-030-0040, 101-040-0005, 101-040-0010, 101-040-0025, 101-040-0030, 101-040-0035, 101-040-0040, 101-040-0045, 101-040-0050, 101-050-0010, 101-050-0015, 101-050-0025

Proposed Repeals: 101-040-0060, 101-040-0070

Last Date for Comment: 11-17-03, 4 p.m.

Summary: This rulemaking adopts new rules governing the purchasing and contacting for services, insurance benefits, and consultants of the Public Employees' Benefit Board. This rulemaking also amends current rules governing the eligibility of benefits' and the procedures of the Public Employees' Benefit Board and are made a part of OAR chapter 101 generally. Experience in using the rules, changes and clarification of federal regulations governing Internal Revenue Service Code Section 125, and the ongoing development of the agency-specific PEBB administrative manual has identified the need for clarification of existing rules and addition of new rules.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Mary Unger

Address: Department of Administrative Services, Public Employees' Benefit Board, 155 Cottage St. NE U90, Salem, OR 97301-3972
Telephone: (503) 378-2349, ext. 320

Department of Agriculture Chapter 603

Date:	Time:	Location:
11-25-03	10 a.m.	Ag Bldg. 635 Capitol St. NE Salem, OR 97301 Rm. D

Hearing Officer: Debbie Gorham

Stat. Auth.: ORS 561; Other Auth.: ORS 604

Stats. Implemented: ORS 604.021

Proposed Amendments: 603-014-0016

Last Date for Comment: 12-9-03

Summary: This addition to the rule will allow brands to be recorded for use on the jaw of cattle.

**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

Date:	Time:	Location:
11-25-03	9 a.m.	635 Capitol St. NE Salem, OR 97301-2532

Hearing Officer: Kathryn L. Alvey

Stat. Auth.: ORS 634, 561.190 & OL 1999, Ch. 1059

Stats. Implemented: ORS 634

Proposed Amendments: 603-057-0006

Last Date for Comment: 12-9-03

Summary: Permanently decreases the annual fee for registration of a pesticide product with the department from \$160 to \$120.

**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

Department of Agriculture, Oregon Chewings Fescue and Creeping Red Fescue Commission Chapter 604

Date:	Time:	Location:
11-21-03	7:30 a.m.	Neufeldt's Restaurant Aumsville, OR

Hearing Officer: Ralph Fisher, Chair

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 604-001

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 604-030-0010, 604-030-0020, 604-030-0030, 604-030-0040

Last Date for Comment: 11-21-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: David S. Nelson

Address: Department of Agriculture, Chewings Fescue and Creeping Red Fescue Commission, 1193 Royvonne Ave. SE - Suite 11, Salem, OR 97302-1932

Telephone: (503) 585-1157

Department of Agriculture, Oregon Clover Commission Chapter 664

Date:	Time:	Location:
11-21-03	7 a.m.	2045 SW Highway 99W McMinnville, OR

Hearing Officer: Tim Dierickx

Stat. Auth.: ORS 576 & OL 2003, Ch. 604

Stats. Implemented: ORS 576 & OL 2003, Ch. 604

Proposed Adoptions: 664-015-0010, 664-015-0020, 664-015-0030

Last Date for Comment: 11-21-03, close of hearing

NOTICES OF PROPOSED RULEMAKING

Summary: The proposed rules describe the composition of the Oregon Clover Commission, qualifications to serve on the commission and reasons for removal of a commission member.

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

Rules Coordinator: John H. McCulley

Address: Department of Agriculture, Oregon Clover Commission, PO Box 2042, Salem, OR 97308-2042

Telephone: (503) 370-7019

.....
**Department of Agriculture,
Oregon Hazelnut Commission
Chapter 623**

Date:	Time:	Location:
11-20-03	8:30 a.m.	4009 Ag & Life Sciences Bldg. OSU Corvallis, OR

Hearing Officer: Polly Owen

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 623-001

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 623-030-0010, 623-030-0020, 623-030-0030

Last Date for Comment: 11-20-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: Polly Owen

Address: Department of Agriculture, Oregon Hazelnut Commission, 21595 A Dolores Way NE, Aurora, OR 97002-9738

Telephone: (503) 678-6823

.....
**Department of Agriculture,
Oregon Highland Bentgrass Commission
Chapter 641**

Date:	Time:	Location:
11-20-03	7 a.m.	Neufeldt's Restaurant 190 Main St. Aumsville, OR

Hearing Officer: Kevn Doerfler

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 641-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 641-030-0010, 641-030-0020, 641-030-0030

Last Date for Comment: 11-20-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Highland Bentgrass Commission, PO Box 3366, Salem, OR 97302-0366

Telephone: (503) 364-2944

**Department of Agriculture,
Oregon Mint Commission
Chapter 642**

Date:	Time:	Location:
11-18-03	10 a.m.	Hood River Hotel 102 Oak Ave. Hood River, OR

Hearing Officer: Jerry Marguth

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 642-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 642-030-0010, 642-030-0020, 642-030-0030

Proposed Amendments: 642-010-0020

Last Date for Comment: 11-18-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission including amending their penalties to reflect the new levels outlined in SB 854.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Oregon Mint Commission, PO Box 3366, Salem, OR 97302-0366

Telephone: (503) 364-2944

.....
**Department of Agriculture,
Oregon Orchardgrass Seed Producers Commission
Chapter 655**

Date:	Time:	Location:
1-7-04	6 p.m.	325 Airport Road Albany, OR

Hearing Officer: Larry Pfennig

Stat. Auth.: ORS 576 & OL 2003, Ch. 604

Stats. Implemented: ORS 576 & OL 2003, Ch. 604

Proposed Adoptions: 655-015-0010, 655-015-0020, 655-015-0030

Last Date for Comment: 1-7-04, close of hearing

Summary: The proposed new rules establish the number and terms for members of the Oregon Orchardgrass Seed Producers Commission. The rules establish qualifications to serve as a commissioner and specify the grounds for removing a commissioner.

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

Rules Coordinator: John H. McCulley

Address: Department of Agriculture, Orchardgrass Seed Commission, PO Box 2042, Salem, OR 97308-2042

Telephone: (503) 370-7019

.....
**Department of Agriculture,
Oregon Potato Commission
Chapter 658**

Date:	Time:	Location:
11-25-03	7:45 a.m.	700 NE Multnomah 3rd Floor Conf. Rm. Portland, OR

Hearing Officer: Tony Amstad, Chair

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 658-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 658-010-0007, 658-030-0010, 658-030-0020, 658-030-0030

Proposed Amendments: 658-010-0005, 658-010-0006

Last Date for Comment: 11-25-03, close of hearing

NOTICES OF PROPOSED RULEMAKING

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: Megan Demarest

Address: Department of Agriculture, Oregon Potato Commission, 700 NE Multnomah St. - Suite 460, Portland, OR 97232-4104

Telephone: (503) 731-3300

.....
**Department of Agriculture,
Oregon Raspberry and Blackberry Commission
Chapter 611**

Date:	Time:	Location:
11-19-03	1:30 p.m.	4845 B SW Dresden Ave. Corvallis, OR 97333

Hearing Officer: Philip Gutt

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: 611-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 611-030-0010, 611-030-0020, 611-030-0030

Last Date for Comment: 11-19-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: Rachel Denué

Address: Department of Agriculture, Raspberry and Blackberry Commission, 4845 B SW Dresden Ave., Corvallis, OR 97333

Telephone: (541) 758-4043

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**Department of Agriculture,
Oregon Ryegrass Growers Seed Commission
Chapter 657**

Date:	Time:	Location:
12-2-03	7 p.m.	Old Armory Bldg. Evelyn Downing Room 4th & Lyon Albany, OR

Hearing Officer: John Langdon

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 657-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 657-030-0010, 657-030-0020, 657-030-0030

Last Date for Comment: 12-2-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a

public member. These rules may also address other organizational aspects of the commission.

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

Rules Coordinator: Lisa Ostlund

Address: Department of Agriculture, Ryegrass Seed Com, PO Box 3366, Salem, OR 97302

Telephone: (503) 364-2944

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**Department of Agriculture,
Oregon Salmon Commission
Chapter 646**

Date:	Time:	Location:
11-18-03	11 a.m.	Charleston Marina RV Park Recreation Rm. 63402 Kingfisher Rd. Charleston, OR 97420

Hearing Officer: Nancy Fitzpatrick

Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 646-001

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 646-030-0010, 646-030-0020, 646-030-0030, 646-010-0030

Last Date for Comment: 11-18-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: Nancy Fitzpatrick

Address: Department of Agriculture, Salmon Commission, PO Box 983, Lincoln City, OR 97367-0983

Telephone: (541) 994-2647

.....
**Department of Agriculture,
Oregon Strawberry Commission
Chapter 668**

Date:	Time:	Location:
12-11-03	11:30 a.m.	210 Monroe St. Mt. Angel, OR 97362

Hearing Officer: Philip Gutt

Stat. Auth.: ORS 576, OL 2003, Ch. 604; Other Auth.: OAR 668-001-0000

Stats. Implemented: OL 2003, Ch. 604

Proposed Adoptions: 668-030-0010, 668-030-0020, 668-030-0030

Last Date for Comment: 12-11-03, close of hearing

Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Rachel Denué
Address: Department of Agriculture, Strawberry Commission, 4845
B SW Dresden Ave., Corvallis, OR 97333
Telephone: (541) 758-4043

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**Department of Agriculture,
Oregon Tall Fescue Commission
Chapter 607**

Date: 11-19-03 **Time:** 6:30 p.m. **Location:**
Yaquina Bay Restaurant
Albany, OR

Hearing Officer: Kent Doerfler, Chair
Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 607-001

Stats. Implemented: OL 2003, Ch. 604
Proposed Adoptions: 607-030-0010, 607-030-0020, 607-030-0030, 607-030-0040

Last Date for Comment: 11-19-03, close of hearing
Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: David S. Nelson
Address: Department of Agriculture, Oregon Tall Fescue Commission, 1193 Royvonne SE - Suite 11, Salem, OR 97302
Telephone: (503) 585-1157

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**Department of Agriculture,
Oregon Trawl Commission
Chapter 656**

Date: 11-18-03 **Time:** 9:30 a.m. **Location:**
Port of Coos Bay Conf. Rm.
125 Central
Coos Bay, OR

Hearing Officer: Brad Pettinger
Stat. Auth.: ORS 576 & OL 2003, Ch. 604; Other Auth.: OAR 656-001-0000

Stats. Implemented: OL 2003, Ch. 604
Proposed Adoptions: 656-030-0010, 656-030-0020, 656-030-0030, 656-030-0040

Last Date for Comment: 11-18-03, close of hearing
Summary: These rules implement the provisions of 2003 Oregon Laws, Chapter 604 (SB 854) that relate to the number, term, qualifications, removal and other aspects of commodity commissioner appointment, service and removal, including the appointment of a public member. These rules may also address other organizational aspects of the commission and, where necessary may address the commission's assessment rate if necessary to meet the limits in 2003 Oregon Laws, Chapter 604 (section 39). In addition, these rules may include exemptions from assessments based on commodity quantities, types of commodity sale, or types of commodity producer. 2003 Oregon Laws, Chapter 604 (section 9).

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

Rules Coordinator: Brad Pettinger
Address: Department of Agriculture, Oregon Trawl Commission, PO Box 569, Astoria, OR 97103-0569
Telephone: (503) 325-3384

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

Stat. Auth.: ORS 455.020, 455.030, 455.100, 455.110 & 455.720
Stats. Implemented: ORS 455.020, 455.110 & 455.720
Proposed Amendments: 918-440-0015, 918-440-0040, 918-440-0050, 918-674-0025, 918-674-0033

Last Date for Comment: 11-24-03, 5 p.m.
Summary: Makes editorial/housekeeping changes to the rules following three-year rule review.

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,
Division of Finance and Corporate Securities
Chapter 441**

Date: 12-5-03 **Time:** 9 a.m. **Location:**
HR E
Salem, OR

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 59.825; Other Auth.: OL 2003 Ch. 270
Stats. Implemented: ORS 59.015, 59.165 & 59.185
Proposed Amendments: 441-175-0010, 441-175-0055, 441-175-0130

Proposed Repeals: 441-175-0035, 441-195-0035
Last Date for Comment: 12-5-03
Summary: These proposed rule amendments delete any requirement that mortgage lender "salespersons" be licensed under the Oregon Securities Law, except when acting as an agent of an issuer. The Director further proposes to repeal two obsolete provisions concerning mortgage lenders.

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

Rules Coordinator: Berri Leslie
Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE - Rm. 410, Salem, OR 97301
Telephone: (503) 947-7478

.....
Date: 11-24-03 **Time:** 9 a.m. **Location:**
HR E
Salem, OR

Hearing Officer: Pat Locnikar
Stat. Auth.: ORS 697.085; Other Auth.: OL 2003, Ch. 421 § 4
Stats. Implemented: ORS 25.020 & OL 2003, Ch. 421 § 4
Proposed Adoptions: 441-810-0200, 441-810-0210, 441-810-0220, 441-810-0230, 441-810-0240, 441-810-0250, 441-810-0260
Last Date for Comment: 11-24-03

Summary: These are rules regulating the practices of collection agency that enters into an agreement with an obligee to collect child support payments.

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

Rules Coordinator: Berri Leslie
Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE - Rm. 410, Salem, OR 97301
Telephone: (503) 947-7478

.....
Date: 12-15-03 **Time:** 9 a.m. **Location:**
350 Winter Street NE
HR F
Salem, OR

Hearing Officer: Pat Locnikar

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 59.285, 59.900, 192.845, 645.205, 646.396, 650.050, 697.085, 697.632, 705.135, 705.730, 706.790, 717.310, 723.102, 725.505, 725.625, 726.260

Stats. Implemented: ORS 59.925, 59.905, 97.948, 183.090, 183.310, 183.335, 183.341, 183.430, 183.435, 192.430, 192.440, 192.845, 293.445, 706.580, 707.080, 707.150, 707.180, 717.235, 717.265, 725.235

Proposed Adoptions: 441-001-0005 - 441-001-0050, 441-002-0005 - 441-002-0040

Proposed Repeals: 441-011-0030, 441-012-0005 - 441-012-0050, 441-013-0020 - 441-013-0100, 441-014-0010 - 441-014-0190, 441-015-0010 - 441-015-0080, 441-510-0000 - 441-510-0330, 441-700-0000 - 441-700-0010, 441-745-0020 - 441-745-0270, 441-760-0000 - 441-760-0010, 441-800-0000 - 441-800-0005, 441-850-0025, 441-850-0105 - 441-850-0575, 441-900-0000 - 441-900-0005

Last Date for Comment: 12-15-03

Summary: These rules would consolidate procedural rules and public records rules currently located in the separate rules of the multiple programs administered by the Division of Finance and Corporate Securities. Obsolete and outdated rules are being replaced. The Attorney General's model rules of procedure are being adopted.

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

Rules Coordinator: Berri Leslie

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

Telephone: (503) 947-7478

Date:	Time:	Location:
12-4-03	3 p.m.	350 Winter St. NE HR F Salem, OR

Hearing Officer: Pat Locnikar

Stat. Auth.: ORS 725.185

Stats. Implemented: ORS 725.185

Proposed Amendments: 441-730-0030

Last Date for Comment: 12-4-03

Summary: This amendment restores the annual license fee to the amount charged prior to reduction of that fee in February 2001, plus adjusts examination fees, all to adequately fund the administration of this program.

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

Rules Coordinator: Berri Leslie

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

Telephone: (503) 947-7478

Date:	Time:	Location:
12-12-03	9 a.m.	HR F Salem, OR

Hearing Officer: Pat Locnikar

Stat. Auth.: ORS 59.850, 59.855 & 59.900

Stats. Implemented: ORS 59.850 & 59.855

Proposed Amendments: 441-860-0020, 441-860-0050

Last Date for Comment: 12-12-03

Summary: These amendments restore the initial and renewal licensing fees to the levels prior to reduction in October 2000.

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

Rules Coordinator: Berri Leslie

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE - Rm. 410, Salem, OR 97301-3881

Telephone: (503) 947-7478

Date:	Time:	Location:
12-12-03	9 a.m.	350 Winter St. NE HR F Salem, OR

Hearing Officer: Pat Locnikar

Stat. Auth.: OL 2003, Ch. 526

Stats. Implemented: OL 2003, Ch. 526

Proposed Adoptions: 441-880-0050

Last Date for Comment: 12-12-03

Summary: This rule implements a requirement for a criminal records check on loan originators, specifies categories of criminal convictions that will prevent a person from acting as a loan originator, and provides for examination and retention of these records. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Berri Leslie

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE - Rm. 410, Salem, OR 97301-3881

Telephone: (503) 947-7478

Department of Consumer and Business Services, Insurance Division Chapter 836

Date:	Time:	Location:
12-2-03	9:30 a.m.	Conf. Rm. B, Basement Labor and Industries Bldg. 350 Winter St. NE Salem, OR 97301

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 183.335(8), 731.244 & 731.804

Stats. Implemented: ORS 183.335, 731.804, 744.058, 744.059, 744.064, 744.067, 744.535 & 744.619

Proposed Amendments: 836-009-0007, 836-009-0008, 836-071-0180

Last Date for Comment: 12-5-03

Summary: This rulemaking proposes to permanently adopt new examination fees temporarily adopted effective July 1, 2003, which reflect the costs of the examination services for which the Director has contracted with its licensing vendor. The amendments to OAR 836-009-0007 and 836-071-0180 that were filed with the Secretary of State on June 26, 2002 and that took effect on July 1, 2002, need to be permanently readopted in order to correct procedural defects. This rulemaking also proposes to increase the fee for inclusion of interested persons on the Insurance Division mailing list for rulemaking, from \$35 to \$40.

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

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE - Room 440, Salem, OR 97301

Telephone: (503) 947-7272

Date:	Time:	Location:
12-4-03	9:30 a.m.	Conf. Rm. B, Basement Labor and Industries Bldg. 350 Winter St. NE Salem, OR 97301

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 743.769

Stats. Implemented: ORS 743.766 - 743.769

Proposed Amendments: 836-053-0510

Last Date for Comment: 12-11-03

Summary: This rulemaking proposes to amend the Oregon Standard Health Statement, which is a rule exhibit established to be used with applications for individual health benefit plans, in order to conform its authorization provisions to federal law, specifically to regulations adopted under the federal Health Insurance Portability and Accountability Act (HIPAA).

NOTICES OF PROPOSED RULEMAKING

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

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE - Room 440, Salem, OR 97301

Telephone: (503) 947-7272

Date:	Time:	Location:
12-11-03	9:30 a.m.	Conf. Rm. E (basement) Labor and Industries Bldg. 350 Winter St. NE Salem, OR 97301

Hearing Officer: Lewis Littlehales

Stat. Auth.: ORS 731.244, 733.306 & 743.215

Stats. Implemented: ORS 733.030, 733.210 & 733.300 - 733.322

Proposed Adoptions: 836-051-0106

Proposed Amendments: 836-031-0755, 836-031-0760, 836-031-0765, 836-031-0770, 836-031-0775, 836-051-0101

Proposed Repeals: 836-051-0110, 836-051-0115

Last Date for Comment: 12-16-03

Summary: This rulemaking proposes to amend existing rules governing the determination of minimum standard valuation requirements and minimum nonforfeiture standards in order to replace tables currently in use (1980 Standard Ordinary Mortality Tables) with the 2001 CSO Mortality Table as established in the NAIC model regulation.

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

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE - Room 440-, Salem, OR 97301

Telephone: (503) 947-7272

Stat. Auth.: ORS 731.244, 731.574 & 733.210

Stats. Implemented: ORS 731.574 & 733.210

Proposed Amendments: 836-011-0000

Last Date for Comment: 11-28-03

Summary: The proposed amendments to this rule adopt the blanks and instructions established by the NAIC for annual statements and supplements for reporting years 2003 and 2004. The rule currently adopts blanks and instructions for reporting years 2001 and 2002.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE - Suite 440-1, Salem, OR 97301

Telephone: (503) 947-7272

Department of Consumer and Business Services, Workers' Compensation Board Chapter 438

Date:	Time:	Location:
12-5-03	9:30 a.m.	WCB Salem Office 2601 25th St. SE Ste. 150 Salem, OR 97302

Hearing Officer: Roger C. Pearson

Stat. Auth.: ORS 656.726(5), 656.283 & 656.388

Stats. Implemented: ORS 656, 656.262(11), 656.262(16), 656.283(4)(b) & 656.726(5)

Proposed Adoptions: 438-006-0064, 438-015-0110

Last Date for Comment: 12-5-03

Summary: Permanent amendments to Rules of Practice and Procedures under the Workers' Compensation Law to implement statutory amendments related to prehearing procedures for claims for compensation involving more than one potentially responsible employer or insurer (ORS 656.262(16)(2003), ORS 656.283(4)(2003), OAR 438-006-0064) and assessed attorney fees in cases involving ORS 656.262(11)(a)(2003)(OAR 438-015-0110).

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

Rules Coordinator: Vicky Scott

Address: Department of Consumer and Business Services, Workers' Compensation Board, 2601 25th St. SE, Ste. 150, Salem, OR 97302

Telephone: (503) 378-3308

Department of Corrections Chapter 291

Date:	Time:	Location:
11-20-03	10 a.m.	Department of Corrections Conference Rm. 259 2575 Center St. NE Salem, OR 97301

Hearing Officer: Birdie Worley

Stat. Auth.: ORS 183.335 & 183.341

Stats. Implemented: ORS 183.335 & 183.341

Proposed Amendments: 291-001-0020, 291-001-0025

Proposed Repeals: 291-001-0070

Last Date for Comment: 11-24-03

Summary: These rule modifications are necessary to clarify that notice of proposed rulemaking action will only be given for permanent rules, and to align the rules with current needs and operations of the agency.

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

Rules Coordinator: Carolyn Schnoor

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0933

Department of Environmental Quality Chapter 340

Date:	Time:	Location:
11-19-03	6 p.m.	DEQ Conference Rm. 3A 811 SW 6th Ave. Portland, OR
11-19-03	6 p.m.	DEQ Conference Rm. 2146 NE Fourth St. Bend, OR
11-20-03	6 p.m.	DEQ Conference Rm. 201 W Main St. Suite 2D Medford, OR
11-20-03	6 p.m.	State Office Bldg. Conference Rm. 700 SE Emigrant Ave. Pendleton, OR

Hearing Officer: Staff

Stat. Auth.: ORS 468.020; Other Auth.: ORS 468.015 & 468.035

Stats. Implemented: ORS 468A.035

Proposed Adoptions: 340-214-0400, 340-214-0410, 340-214-0420, 340-214-0430, 340-228-0400, 340-228-0410, 340-228-0420, 340-228-0430, 340-228-0440, 340-228-0450, 340-228-0460, 340-228-0470, 340-228-0480, 340-228-0490, 340-228-0500, 340-228-0510, 340-228-0520, 340-228-0530

Proposed Amendments: 340-200-0400

Last Date for Comment: 11-21-03, 5 p.m.

Summary: The Department of Environmental Quality is proposing to revise the State of Oregon Clear Air Act Implementation Plan (OAR 340-200-0400) by adopting regional haze strategies to reduce air pollution and protect visibility in national parks and wilderness areas. These strategies represent the first step in improving visibility under the federal Regional Haze Rule, adopted by the Environmental Protection Agency in 1999. States have the responsibility of implementing this federal rule. This rulemaking implements Section 309 of the Regional Haze rule in Oregon.

To submit comments or request additional information, please contact Brian Finneran at the Department of Environmental Quali-

NOTICES OF PROPOSED RULEMAKING

ty (DEQ), Air Quality Division, 811 SW 6th Ave., Portland, OR 97204, or finneran.brian@deq.state.or.us, toll free in Oregon at 800-452-4011 Comments can also be faxed to Brian Finneran at (503) 229-5675. See also DEQ's website at //www.deq.state.or.us/ag/regionalhaze/index.htm

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

Rules Coordinator: Rachel Sakata

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

Telephone: (503) 229-5659

Date:	Time:	Location:
11-17-03	1 p.m.	Police Dept. City Council Chambers 777 SW Deschutes Ave. Redmond, OR
11-18-03	1 p.m.	DEQ Headquarters 3rd Floor 811 SW Sixth Ave. (Sixth and Yamhill) Portland, OR
11-19-03	1 p.m.	Eugene Public Library Downtown 100 W 10th Ave. Eugene, OR

Hearing Officer: Greg McMurray, Mark Charles

Stat. Auth.: ORS 468.068

Stats. Implemented: ORS 468.068

Proposed Adoptions: 340-048-0027, 340-048-0037

Proposed Amendments: 340-048-0005, 340-048-0010, 340-048-0015, 340-048-0020

Proposed Repeals: 340-048-0035

Proposed Ren. & Amends: 340-048-0024 to 340-048-0032, 340-048-0025 to 340-048-0042, 340-048-0025 to 340-048-0045, 340-048-0030 to 340-048-0045, 340-048-0040 to 340-048-0050, 340-048-0200 to 340-048-0055

Last Date for Comment: 12-5-03, 5 p.m.

Summary: The Oregon Department of Environmental Quality (DEQ) is proposing to update its procedures for certifying that activities requiring federal licenses or permits will comply with state water quality requirements and standards. It is also proposing to amend the fees it charges for certifying that activities requiring federal licenses and permits comply with water quality requirements and standards. DEQ certifies compliance as authorized by §401 of the federal Clean Water Act. The proposed fees apply to most river dredging, wetland filling, and other instream activities. The fees do not apply to hydropower licensing. The proposal also clarifies the fee that applies to activities other than dredging or filing.

The proposed fee schedule is designed to generate the same amount of revenue as existing fees, but reallocates fees among various sizes of projects so fees more closely match DEQ's costs for certifying projects. Fees for large projects will decrease, while fees for most small and medium-sized projects will increase. The smallest projects, currently exempt from §401 certification fees, remain exempt.

To submit comments or request additional information, please contact Greg McMurray at the Department of Environmental Quality (DEQ), 811 SW Sixth Avenue, Portland, OR 97204, toll free in Oregon at 800-452-4011 x 6978 or 503-229-6978, mcmurray.gregory@deq.state.or.us, or (fax) 503-229-6124 or visit DEQ's website <http://www.deq.state.or.us/news/index.asp>

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

Rules Coordinator: Rachel Sakata

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

Telephone: (503) 229-5659

Department of Fish and Wildlife Chapter 635

Date:	Time:	Location:
12-12-03	8 a.m.	ODFW Commission Room 3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Proposed Adoptions: Rules in 635-003, 635-004, 635-006, 635-011, 635-039

Proposed Amendments: Rules in 635-003, 635-004, 635-006, 635-011, 635-039

Proposed Repeals: Rules in 635-003, 635-004, 635-006, 635-011, 635-039

Last Date for Comment: 12-12-03

Summary: Adopt the 2004 groundfish and halibut recreational and commercial fishery regulations and adopted rules consistent with actions taken by the Pacific Fishery Management Council at its September 2003 meeting.

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

Rules Coordinator: Mike Lueck

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

Date:	Time:	Location:
12-12-03	8 a.m.	ODFW Commission Room 3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.109 & 506.129

Proposed Adoptions: Rules in 635-500

Proposed Amendments: 635-500-1800 - 635-500-3300

Proposed Repeals: Rules in 635-500

Last Date for Comment: 12-12-03

Summary: Amendment of policies and objectives for fish management including the direction of summer steelhead, spring chinook, sockeye salmon, bull trout and pacific lamprey in the Upper Deschutes River Subbasin, upstream of Round Butte dam.

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

Rules Coordinator: Mike Lueck

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

Date:	Time:	Location:
12-12-03	8 a.m.	ODFW Commission Room 3406 Cherry Ave. NE Salem, OR 97303

Hearing Officer: Fish and Wildlife Commission

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

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

Proposed Amendments: Rules in 635-120

Last Date for Comment: 12-12-03

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

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

Rules Coordinator: Mike Lueck

NOTICES OF PROPOSED RULEMAKING

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE,
Salem, OR 97303
Telephone: (503) 947-6033

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

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

Date: 11-25-03 **Time:** 9 a.m. **Location:** Rm. 137B
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005(1)(a)
Stats. Implemented: ORS 418.005
Proposed Amendments: 413-110-0000, 413-110-0010, 413-110-0015, 413-110-0020, 413-110-0030, 413-110-0040, 413-110-0050, 413-110-0060
Last Date for Comment: 11-28-03

Summary: The Legal Risk Placement rules are being changed to correct language regarding notice to the court for a child placed on a legal risk basis out of state. These rules are also being changed to incorporate housekeeping revisions that reflect changes in structure within the Department of Human Services, such as the name of the child welfare policy and program cluster.

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

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301
Telephone: (503) 945-6067

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Date: 11-25-03 **Time:** 8:30 a.m. **Location:** Rm 137B
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 418.005; Other Auth.: ORS 419B.192(1)-(2), 419.192(1)-(2), 109.119(1)-(7), Adoption and Safe Families Act (ASFA) & Indian Child Welfare Act
Stats. Implemented: ORS 419A.004(16), 419B.192(1)-(2) & 109.119(1)-(7)

Proposed Amendments: 413-070-0060, 413-070-0063, 413-070-0066, 413-070-0067, 413-070-0069, 413-070-0072, 413-070-0075, 413-070-0078, 413-070-0081, 413-070-0087, 413-070-0090, 413-070-0092, 413-070-0093

Last Date for Comment: 11-28-03
Summary: The Working with Relatives Toward Placement of Children rules are being changed to refine and provide clarity of procedures. These rules are also being changed to establish new time frames for diligent search and assessment of suitability. In addition, these rules are being changed to incorporate housekeeping revisions that reflect changes in structure within the Department of Human Services, such as the name of the child welfare policy and program cluster.

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

Rules Coordinator: Annette Tesch
Address: Department of Human Services, Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301
Telephone: (503) 945-6067

Date: 11-21-03 **Time:** 10:30 a.m.-12 p.m. **Location:** Rm 137 C
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0140
Last Date for Comment: 11-21-03, 5 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Effective November 1, 2003, OMAP temporarily amended 410-121-0140 to remove the requirement for unit dose and modifies unit dose (institutional) pharmacies to credit OMAP for all unused medications.
**Auxiliary aids for persons with disabilities are available upon advance request.*

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

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Date: 11-21-03 **Time:** 10:30 a.m.-12 p.m. **Location:** Rm 137 B
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-142-0300
Last Date for Comment: 11-21-03, 5 p.m.

Summary: The Hospice Services Rules govern Office of Medical Assistance Programs payment for services provided to clients. Medicaid hospice rates are calculated based upon the annual hospice rates established by Centers for Medicine and Medicaid Services (CMS). These rates are authorized by section 1814 of the Social Security Act. The Office of Medical Assistance Programs (OMAP) temporarily amended 410-142-0300 to update the Hospice Rates in compliance with federal regulations incorporating the new Hospice rates, effective October 1, 2003. This is the Notice to permanently amend 410-142-0300 on or after December 1, 2003.

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

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

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Date: 11-21-03 **Time:** 10:30 a.m.-12 p.m. **Location:** Rm 137 B
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Adoptions: 410-121-0021
Proposed Amendments: 410-121-0040
Last Date for Comment: 11-21-03, 5 p.m.

Summary: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for pharmaceutical products and services provided to clients. Rule 410-121-0021 will be adopted to define requirements to provide pharmaceu-

NOTICES OF PROPOSED RULEMAKING

tical prescription services for pharmacies, rural health clinics and other medical organizations. Rule 410-121-0040 will be amended to require prior authorization (PA) on Triptans.

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Date:	Time:	Location:
11-21-03	10:30 a.m.-12 p.m.	Rm 137 B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-129-0080

Last Date for Comment: 11-21-03, 5 p.m.

Summary: The Speech-Language, Pathology, Audiology and Hearing Aids services program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rule 410-129-0080 is being revised to centralize prior/payment authorizations of Speech-language pathology, Audiology, and Hearing Aids services. Miscellaneous medical services that are currently authorized by branch offices will be authorized by OMAP's Medical Unit. Services currently authorized by the Medically Fragile Children's Unit will continue to be authorized by that unit. Prior/payment authorization for clients in the FFS (fee-for-service) Medical Case Management Program will be authorized by OMAP's Medical Case Management contractor.

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

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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

Date:	Time:	Location:
11-21-03	9 a.m.	500 Summer St. NE Room 137D Salem, OR

Hearing Officer: Sonya Plummer

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 417.340 - 417.348, 427.005 - 427.007 & 430.610 - 430.670

Proposed Repeals: 309-041-1110 - 309-041-1170

Last Date for Comment: 11-24-03

Summary: The rules for Self-Directed Support for Individuals with Developmental Disabilities and Their Families, OAR 309-041-1110 through 309-041-1170, are being proposed for repeal in coordination with the permanent adoption on December 28, 2003, to Comprehensive In-Home Support for Adults with Developmental Disabilities rules, OAR 411-330-0010 through 411-330-0170.

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

Rules Coordinator: Sonya Plummer

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

Telephone: (503) 945-6398

Department of Human Services, Public Health Chapter 333

Date:	Time:	Location:
11-24-03	9:30 a.m.	800 NE Oregon St. Rm. 120B Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 433.321 & 433.323

Stats. Implemented: ORS 433.321 & 433.323

Proposed Adoptions: 333-020-0127, 333-020-0147, 333-020-0149, 333-020-0151, 333-020-0153

Proposed Amendments: 333-020-0125, 333-020-0130, 333-020-0135, 333-020-0140, 333-020-0145, 333-020-0150, 333-020-0155, 333-020-0160, 333-020-0165

Last Date for Comment: 11-24-03, 5 p.m.

Summary: The Department of Human Services is mandated to adopt rules to implement enrolled Senate Bill 401 of the 2003 Legislative Session. The bill amended the newborn hearing screening statute to create a newborn hearing screening test registry and tracking and recall system. The act mandates screening, diagnostic, and early intervention facilities to report to the Department of Human Services individual level newborn hearing screening and diagnostic data, and early intervention enrollment status on newborns; allows the Department of Human Services and local public health representatives to contact families of children for follow-up testing and/or services. The law mandates reporting deadlines from facilities to the Department of Human Services and charges the Department of Human Services to report data back to facilities. The statute also defines in more detail appointments to the Newborn Hearing Screening Advisory Committee.

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

Rules Coordinator: Christina Hartman

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

Telephone: (503) 731-4000, ext. 822

Stat. Auth.: ORS 438.605, 438.610, 438.615, 438.620, 448.280 (1)(b) & 448.280(2)

Stats. Implemented: ORS 448.150(1), 448.131, 448.280(1)(b) & 448.280(2)

Proposed Adoptions: 333-064-0070

Proposed Amendments: 333-064-0005, 333-064-0010, 333-064-0015, 333-064-0025, 333-064-0030, 333-064-0035, 333-064-0040, 333-064-0060, 333-064-0065

Last Date for Comment: 11-24-03

Summary: Amends Rules (for accrediting environmental testing laboratories) to: 1) Correct agency names and titles to conform to changes in the Department of Human Services; 2) Change the standards from the NELAC 1999 to NELAC 2000 Standards as required to maintain national recognition of the Oregon Environmental Laboratory Accreditation Program by the U.S. Environmental Protection Agency's National Environmental Laboratory Accreditation Program; 3) Increase fees to cover costs of operating the Program; 4) Add clarifying language to help avoid misinterpretation.

Excepting one new rule regarding retroactivity, these rules are the same as rules already filed with the Secretary of State on October 10, 2002. There was a technical deficiency with the first filing as the required filing with Legislative Counsel was not timely.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 731-4000, ext. 822

NOTICES OF PROPOSED RULEMAKING

Department of Human Services, Self-Sufficiency Programs Chapter 461

Date: 11-25-03
Time: 10 a.m.
Location: Rm 254
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Proposed Amendments: 461-193-0560

Last Date for Comment: 11-25-03

Summary: Rule 461-193-0560 is being amended to increase the monthly assistance grant that is given to refugees.

(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: 11-25-03
Time: 10 a.m.
Location: Rm. 254
500 Summer St. NE
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 410.070, 411.060, 411.070, 411.635, 411.700, 411.816, 418.100 & Ch. 638 OL 2003; Other Auth.: Oregon' Health Insurance Flexibility and Accountability (HIFA)/Section 1115 demonstration, the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services; Section 1902(e)(5) and Section 1902(e)(6) of the Social Security Act; 42 U.S.C. 1396p(b)(2)(A); Chapter 638, Oregon Laws 2003; Farm Security and Rural Investment Act of 2002, Section 4121 revised FS Act of 1977 Section 6(d)(4)(I)(i)(I)

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.700, 411.816, 414.025, 414.105, 418.100, Ch. 859 OL 1999 & Ch. 638 OL 2003

Proposed Adoptions: 461-135-0847

Proposed Amendments: 461-025-0311, 461-110-0330, 461-120-0120, 461-120-0340, 461-120-0345, 461-135-0010, 461-135-0730, 461-135-0780, 461-135-0830, 461-135-0832, 461-135-1130, 461-155-0020, 461-155-0030, 461-155-0035, 461-155-0150, 461-155-0250, 461-155-0270, 461-155-0300, 461-155-0526, 461-155-0680, 461-160-0580, 461-160-0620, 461-165-0030, 461-170-0010, 461-175-0200, 461-180-0070, 461-180-0105, 461-190-0110, 461-190-0161, 461-190-0211, 461-190-0360, 461-195-0501, 461-195-0561

Proposed Repeals: 461-135-0180, 461-190-0191

Last Date for Comment: 11-25-03

Summary: Rule 461-025-0311 is being amended to remove contested case hearings regarding Pay-After-Performance (PAP) because PAP is being eliminated.

Rule 461-110-0330 is being amended to include caretaker relatives and exclude people who receive adoption assistance from the filing group.

Rule 461-120-0120 is being amended to update the refugee/asylee immigration statuses.

Rule 461-120-0340 is being amended because Pay-After-Performance is being eliminated.

Rule 461-120-0345 is being amended to clarify that a person eligible for the Oregon Health Plan (OHP) under the OHP-OPU program must enroll all other OHP-OPU recipients in the family in his or her employer-sponsored health insurance if they are all eligible for

the Family Health Insurance Assistance Program (FHIAP). The OHP-OPU program (also called OHP Standard) provides medical assistance to low-income nonpregnant adults.

Rule 461-135-0010 is being amended to reflect federal policy and guidance for the eligibility of medical assistance for pregnant women.

Rule 461-135-0180 is being repealed because Pay-After-Performance is being eliminated.

Rule 461-135-0730 is being amended to align it with Federal policy.

Rules 461-135-0780, 461-155-0250, 461-155-0270, 461-155-0300, 461-160-0580 and 461-160-0620 are being amended to reflect the Congressionally-approved cost-of-living increase for recipients of Social Security/SSI.

Rule 461-135-0830 is being amended to restrict enrollment to those who could be found eligible if they lost entitlement for Supplemental Security Income (SSI) under Section 1634(c) of the Social Security Act on or after July 1, 1987. This conforms with Section 6 of the Employment Opportunity for Disabled Americans Act (P.L. 99-643). The current version of the rule does not specify a date under which eligibility could be determined.

Rule 461-135-0832 is being amended to clarify the definition of "disabled child." Specifically that the child, in addition to being disabled by SSI criteria, must also be permanently and totally disabled.

Rule 461-135-0847 is being adopted to implement the following forms: "Request for Notice of Transfer or Encumbrance," "Termination of Request for Notice of Transfer or Encumbrance," and "Notice of Transfer or Encumbrance."

Rule 461-135-1130 is being amended to make the rule consistent with the July 1, 2003 amendment to rule 461-135-1120 regarding the date an Oregon Health Plan (OHP) premium payment must be received to be considered paid on time. The rule is also amended to clarify that clients disqualified for not timely paying premiums are ineligible for OHP-OPU.

Rule 461-155-0020 is being amended to update program acronyms and to specify that no-adult standard tables are used for TANF and REF programs. The MAA and MAF medical programs will no longer use the no-adult standards. Also, section (3) is being amended to note that individuals receiving Adoption Assistance are not counted in the number in household when determining TANF benefit levels in no-adult households.

Rule 461-155-0030 is being amended to update program acronyms and to specify that no-adult standards are used for TANF and REF programs. The MAA and MAF medical programs will no longer use the no-adult standards.

Rule 461-155-0035 is being amended to reflect increases in the amount of the Cooperation Incentive Payment standard.

Rule 461-155-0150 is being amended to decrease all ERDC copays by \$18 per month and to implement a reduced copay for the first month of ERDC eligibility.

Rule 461-155-0526 is being amended to clarify that a client must have been admitted as an inpatient to an acute care hospital, and not only have received emergency room care, in order to be eligible for payments under this rule.

Rule 461-155-0680 is being amended to not require clients receiving in-home services to apply for the Oregon Telephone Assistance Program (OTAP) or Link-Up America because their application for these programs will be denied based on the income limit for the program under which they receive Department benefits.

Rule 461-165-0030 is being amended to specifically state that individuals may not simultaneously receive benefits funded by TANF and Title IV-E of the Social Security Act.

Rule 461-170-0010 is being amended to correct an omission made with the October 1, 2003 filing of this rule.

Rule 461-175-0200 is being amended because Pay-After-Performance is being eliminated. This rule is also being amended to remove "shelter" from section (1)(a) as a result of HB 2696 which allows

NOTICES OF PROPOSED RULEMAKING

clients to receive notices and request hearing based on the denial of JOBS support service payment requests.

Rule 461-180-0070 is being amended because Pay-After-Performance is being eliminated.

Rule 461-180-0105 is being amended to clarify that clients, who have delayed their Oregon Health Plan disqualification pending a hearing, will have their disqualification start following the issuance of a final order upholding the Departments decision.

Rule 461-190-0110 is being amended because the definition of "component" in the JOBS program is being amended to remove "self-initiated training" and include "Microenterprise" and "vocational training."

Rule 461-190-0161 is being amended to remove the definition of "self-initiated training", add a definition of "vocational training", and remove the time limit restrictions on work supplementation.

Rule 461-190-0191 is being repealed because with the end of the Oregon Option waiver to federal TANF rules, Oregon has decided to consolidate the self-initiated training component of the JOBS program into the federally-countable vocational education component.

Rule 461-190-0211 is being amended because the Oregon Option waiver to federal TANF rules is ending and Oregon has decided to consolidate the self-initiated training component of the JOBS program into the federally-countable vocational education component.

Rule 461-190-0360 is being amended to increase the maximum reimbursement to participants costs for participating in the Oregon Food Stamp Employment and Transition (OFSET) program components or activities to \$40 a month per participant.

Rule 461-195-0501 is being amended to specify that a JOBS support service payment can be an overpayment when the client receives it as a result of fraudulently receiving TANF.

Rule 461-195-0561 is being amended to correct an OAR citation. OAR 461-200-6120 has been renumbered to 137-055-6120.

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

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

Rules Coordinator: Annette Tesch

Address: Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E48, Salem, OR 97301-1066

Telephone: (503) 945-6067

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

Date:	Time:	Location:
11-21-03	9 a.m.	500 Summer St. NE Room 137D

Hearing Officer: Sonya Plummer
Stat. Auth.: ORS 409.050 & 410.070
Stats. Implemented: ORS 417.340 - 417.348, 427.005 - 427.007 & 430.610 - 430.670

Proposed Adoptions: Rules in 411-330

Last Date for Comment: 11-24-03

Summary: The Comprehensive In-Home Support for Adults with Developmental Disabilities rules are being proposed for adoption December 28, 2003 following expiration on December 27, 2003 of temporary amendments to Self-Directed Support for Individuals with Developmental Disabilities rules. These proposed rules are intended to a) update definitions; b) clarify eligibility; c) reflect service descriptions acceptable under the Community Based Waiver #0117.90.R2; and d) define and clarify roles and responsibilities of families, individuals' legal representatives, local Developmental Disabilities programs and the Department.

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

Rules Coordinator: Sonya Plummer

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E10, Salem, OR 97301-1098

Telephone: (503) 945-6398

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Date:	Time:	Location:
11-26-03	3 p.m.	500 Summer St. NE Room 137D

Hearing Officer: Sonya Plummer

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 430.610, 430.630 & 430.670

Proposed Ren. & Amends: 309-047-0000 - 309-047-0140 to 411-345-0010 - 411-345-0310

Last Date for Comment: 11-28-03

Summary: The Employment and Alternative to Employment Services for Individuals with Developmental Disabilities rules are being proposed for amendment December 28, 2003 following expiration on December 27, 2003 of temporary amendments to the Employment and Alternative to Employment Services for Individuals with Developmental Disabilities rules. These proposed rules are intended to (a) amend and renumber existing rules governing the Employment and Alternative to Employment Services for Individuals with Developmental Disabilities rules; (b) implement the Staley Lawsuit Settlement; (c) meet Federal Title XIX waiver requirements; and (d) match legislative allocations.

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

Rules Coordinator: Sonya Plummer

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E10, Salem, OR 97301-1098

Telephone: (503) 945-6398

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Date:	Time:	Location:
11-24-03	3 p.m.	500 Summer St. NE Room 137D

Hearing Officer: Sonya Plummer

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 417.340 - 417.348, 427.005 - 427.007 & 430.610 - 430.670

Proposed Ren. & Amends: 309-041-1750 - 309-041-1920 to 411-340-0010 - 411-340-0180

Last Date for Comment: 11-25-03

Summary: The Support Services for Adults with Developmental Disabilities rules are being proposed for amendment December 28, 2003 following expiration on December 27, 2003 of temporary amendments to Support Services for Adults with Developmental Disabilities rules. These proposed rules are intended to: a) establish rules governing Support Services in Chapter 411; b) update definitions; c) permanently adopt temporary measures taken to enable the Department to remain within its 2003-05 budget; d) make rules for these services more consistent with Medicaid program requirements; and e) clarify process and procedural questions.

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

Rules Coordinator: Sonya Plummer

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E10, Salem, OR 97301-1098

Telephone: (503) 945-6398

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Date:	Time:	Location:
11-26-03	1 p.m.	500 Summer St. NE Room 137D

Hearing Officer: Sonya Plummer

Stat. Auth.: ORS 409.050, 410.070 & 417.346

Stats. Implemented: ORS 430.610 - 430.670, 427.005 - 427.007 & 417.340 - 417.350

Proposed Ren. & Amends: 309-041-2000 - 309-041-2180 to 411-305-0010 - 411-305-0180

NOTICES OF PROPOSED RULEMAKING

Last Date for Comment: 11-28-03

Summary: The Family Support Services for Children with Developmental Disabilities are being proposed for amendment December 28, 2003 following expiration on December 27, 2003 of temporary amendments to Family Support Services for Children with Developmental Disabilities rules. These proposed rules are intended to: (a) establish the rules in Chapter 411, Division 305; (b) make adjustments to the Family Support program based on reduced funding allocations required by the Department's approved 2003-2005 operating budget; (c) reflect service eligibility, service descriptions, and other participation requirements acceptable under the Community Based Waiver #0117.90.R2.

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

Rules Coordinator: Sonya Plummer

Address: Department of Human Services, Seniors and People with Disabilities, 500 Summer St. NE, E10, Salem, OR 97301-1098

Telephone: (503) 945-6398

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Department of Justice
Chapter 137

Date:	Time:	Location:
11-14-03	10 a.m.	800 NE Oregon Portland, OR 97214
11-18-03	10 a.m.	1036 SE Douglas Roseburg, OR 97470

Hearing Officer: Ross Laybourn

Stat. Auth.: ORS 464.250(1)(a), 464.250(g) & 464.250(3)

Stats. Implemented: ORS 167.117(1), 464.350(1)(b) & 464.360

Proposed Amendments: 137-025-0020, 137-025-0160, 137-025-0180

Last Date for Comment: 11-25-03

Summary: 1. Amends rules to clarify what awards to bingo players may be offered as "prizes" and that consolation awards are not permitted.

2. Amends rule to clarify that licensee's games must be conducted at a single location and that 2 simultaneous games may be offered at that location.

**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 97301

Telephone: (503) 378-6313

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Stat. Auth.: ORS 018.900(8)

Stats. Implemented: ORS 018.600 - 018.910, 023.175, 023.186 & OL 2003 Ch. 79, 85, 576 & 779

Proposed Adoptions: 137-060-0100, 137-060-0110, 137-060-0120, 137-060-0130, 137-060-0140, 137-060-0150, 137-060-0160, 137-060-0200, 137-060-0210, 137-060-0220, 137-060-0230, 137-060-0240, 137-060-0250, 137-060-0260, 137-060-0300, 137-060-0310, 137-060-0320, 137-060-0330, 137-060-0340, 137-060-0350, 137-060-0360, 137-060-0400, 137-060-0410, 137-060-0420, 137-060-0430, 137-060-0440, 137-060-0450

Proposed Repeals: 137-060-0010, 137-060-0011, 137-060-0012, 137-060-0013, 137-060-0014, 137-060-0015, 137-060-0016, 137-060-0020, 137-060-0021, 137-060-0022, 137-060-0023, 137-060-0024, 137-060-0025, 137-060-0026, 137-060-0030, 137-060-0031, 137-060-0032, 137-060-0033, 137-060-0034, 137-060-0035, 137-060-0036, 137-060-0040, 137-060-0041, 137-060-0042, 137-060-0043, 137-060-0044, 137-060-0045

Last Date for Comment: 12-1-03

Summary: Adopts new model garnishment forms for notices of garnishment issued by state agencies and county tax collectors. Repeals existing model garnishment forms. The adoption of the new forms and repeal of the old forms are effective January 1, 2004 or upon filing, whichever is later.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

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Stat. Auth.: ORS 183.390 & 183.341

Stats. Implemented: ORS 183.341(1), 183.390 & OL 2003, Ch. 749 § 6, 17

Proposed Amendments: 137-001-0070

Proposed Repeals: 137-001-0085

Last Date for Comment: 11-21-03

Summary: The rule changes would add to the information that must be contained in a petition to amend or repeal an agency rule and require the agency to seek public input on less costly ways to achieve its goals. In addition, the rule on periodic review of all agency rules would be repealed.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

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Stat. Auth.: ORS 025.020, 025.030, 025.125, 025.164, 025.167, 025.260, 025.396, 025.427, 180.320 - 180.360, 416.422, 416.455, OL 2003, Ch. 116, OL 2003, Ch. 146 § 5, OL 2003, Ch. 373 § 1, OL 2003, Ch. 450 § 1 & OL 2003, Ch. 576 § 1, 14, 18, 19, 20, 21, 22, 25

Stats. Implemented: ORS 018.400, 018.645, 025.020, 025.030, 025.080, 025.130, 025.150, 025.164, 025.167, 025.287, 025.372 - 025.427, 025.610, 107.108, 107.135, 416.422, 416.425, 656.234, 657.780 & 657.855

Proposed Adoptions: 137-055-3200, 137-055-3660, 137-055-4110, 137-055-4450, 137-055-5025, 137-055-5510

Proposed Amendments: 137-055-1020, 137-055-1160, 137-055-3220, 137-055-3360, 137-055-3400, 137-055-3420, 137-055-3440, 137-055-3490, 137-055-4060, 137-055-4080, 137-055-4100, 137-055-4120, 137-055-4130, 137-055-4160, 137-055-4180, 137-055-4440, 137-055-4520, 137-055-5020, 137-055-5040, 137-055-5110, 137-055-5220, 137-055-6020, 137-055-6025, 137-055-6110

Proposed Repeals: 137-055-4140, 137-055-4200, 137-055-4220, 137-055-4240, 137-055-4260, 137-055-4280

Last Date for Comment: 11-24-03

Summary: Changes are being made to the above rules due to legislative implementation of House Bills 2110, 2111, 2113, 2114, 2274, 2277, 2332, 2645, 2646, 2711.

Copies of proposed rules can be found on our web page at <http://www.dcs.state.or.us/policy/>.

Rules Coordinator: Shawn Irish

Address: Department of Justice, Division of Child Support, 494 State St. SE, Suite 300, Salem, OR 97301

Telephone: (503) 986-6420

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Stat. Auth.: ORS 192.445

Stats. Implemented: ORS 192.445, as amended by OL 2003, Ch. 807 § 1

Proposed Amendments: 137-004-0800

Last Date for Comment: 12-8-03

Summary: OAR 137-004-0800 implements ORS 192.445 by describing the procedures for submitting a written request for nondisclosure of specified personal information. The 2003 Legislative Assembly amended ORS 192.445 to add an electronic mail address to the personal information for which a person may submit a written request for nondisclosure, and made nonsubstantive grammatical amendments to the statute. This rule amendment is necessary to reflect the amendments made to the statute.

Rules Coordinator: Carol Riches

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 378-6313

Stat. Auth.: ORS 183.335, 183.341(2) & 183.341(4)

Stats. Implemented: ORS 183.335 & 183.341(4)

Proposed Amendments: 137-008-0000

Last Date for Comment: 12-8-03

Summary: This rule provides for notice to the public of rulemaking by the Department of Justice. The amendment clarifies that the rule applies to notice of adoption, amendment or repeal of any permanent rule, rather than to any rulemaking.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

Stat. Auth.: ORS 180.110, 180.160, 192.430(2) & 192.440(3); Other Auth.: 2003-2005 Oregon Department of Justice budget, as approved by the 2003 Legislative Assembly

Stats. Implemented: ORS 180.110, 180.160, 192.430(2) & 192.440(3)

Proposed Amendments: 137-008-0010

Last Date for Comment: 12-8-03

Summary: The rules establishes the fees the Department may charge to reimburse its costs of providing public records and also establishes the prices of Department publications. Amendments are necessary to reflect changes to hourly billing rates of Department staff, as approved by the 2003 Legislative Assembly, and to reflect an increase in the price for purchasing a set of bound volumes of Attorney General Opinions.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341 & OL 2003, ch. 075

Proposed Amendments: 137-003-0000, 137-003-0501 - 137-003-0695 (excluding 137-003-0505 & 137-003-0550)

Last Date for Comment: 11-14-03

Summary: These proposed rule changes would revise terminology to implement OR Laws 2003, Ch. 075 (House Bill 2526 (2003)). The Legislature changed the statutory title "Hearing Officer Panel" to "Office of Administrative Hearings" and changed "hearing officer" to "administrative law judge." These proposed rules mirror those changes.

In addition, the proposed changes clarify the rule about prehearing motions; remove agency authority to require an ALJ to transmit a legal question to the agency; require agencies to serve written responses to transmitted legal questions on all parties; and add findings of fact to changes that agencies must identify and explain in a final order.

* This notice is being amended to add: The department requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business. (This notice was first published in the October 2003 bulletin).

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

Department of Revenue Chapter 150

Date:	Time:	Location:
12-2-03	10-11:30 a.m.	Dept. of Revenue 955 Center St. NE Salem, OR

Hearing Officer: Rick Schack

Stat. Auth.: ORS 305.100; Other Auth.: ORS 294.175, 294.495, 308.156

Stats. Implemented: OR Laws 2003, Chap. 454; OR Laws 2003, Chap. 621, ORS 294.175, 294.187, 294.311, 294.435, 306.115, 308.156, 308.159, 308.219, 08.250, 309.100, 309.110, 309.115, 311.205, 311.672, 311.708, 311.806, 312.040, 321.005, 321.045, 321.282, 321.354, 321.358, 321.379, 321.430, 321.432, 321.434, 321.515, 321.812, 321.815, 321.950, 570.562

Proposed Adoptions: OR Laws 2003, Chap. 454, Sect. 1(1); OR Laws 2003, Chap. 454, Sect. 1(12); OR Laws 2003, Chap. 454, Sect. 1(13); OR Laws 2003, Chap. 454, Sect. 4(1)(c); OR Laws 2003, Chap. 454, Sect. 4(3); OR Laws 2003, Chap. 621, Sect. 109(1), 150-294.175(2)-(A), 150-294.175(2)-(B), 150-294.435(1)-(C), 150-308.159, 150-309.110(1)-(D), 150-309.110(1)-(E), 150-309.115(1)-(C)

Proposed Amendments: 150-294.187, 150-306.115, 150-308.156(5)-(B), 150-308.219, 150-308.250, 150-309.100(3)-(B), 150-309.100(3)-(C), 150-309.110(1)-(A), 150-309.110(1)-(B), 150-311.672(1)(a), 150-311.708, 150-311.806-(A), 150-312.040(1)(b), 150-321.005, 150-321.045, 150-321.432-(A)

Proposed Repeals: 150-321.282(1)-(C), 150-321.282(1)-(D), 150-321.282(1)-(E), 150-321.282(1)-(I), 150-321.282(2)(a), 150-321.282(2)(c), 150-321.282(5), 150-321.379(1)-(A), 150-321.379(1)-(B), 150-321.379(2)-(A), 150-321.379(2)-(C), 150-321.430(1), 150-321.430(3)-(A), 150-321.430(3)-(B), 150-321.430(3)-(C), 150-321.430(3)-(D), 150-321.434, 150-321.434(1), 150-321.434(2), 150-321.515, 150-321.950

Proposed Renumberings: 150-294.311(26) to 150-294.311(30), 150-309.115(2)-(f) to 150-309.115(2)-(e), 150-311.205(1)(b) to 150-311.205(1)(b)-(A), 150-311.205(1)(c)-(A) to 150-311.205(1)(b)-(B), 150-Ch. 1078, Sections 2 & 35, 1999 Session to 150-321.354, 150-Ch. 1078, Sections 2 & 35, 1999 Session to 150-321.812, 150-570.560 to 150-570.562

Proposed Ren. & Amends: 150-311.205(1)(c)-(B) to 150-311.205(1)(b)-(C), 150-321.282(6)(a)-(A) to 150-321.282(4)(a)-(A), 150-321.282(6)(a)-(D) to 150-321.282(4)(a)-(B), 150-321.358(2)(b) to 150-321.358(3)(b)-(A), 150-321.358(3)(b) to 150-321.358(4)(b), 150-321.358(4) to 150-321.358(5), 150-321.815(2)(b) to 150-321.815(3)(b), 150-321.815(4) to 150-321.815(5)

Last Date for Comment: 12-2-03

Summary: These proposed changes are to adopt, amend, renumber, repeal, or amend and renumber Administrative Rules relating to Property Tax and Timber Tax, Local Budget, and County Assessment Funding Assistance.

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

Rules Coordinator: Xann-Marie Culver

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 947-2099

Date:	Time:	Location:
12-2-03	10-11:30 a.m.	Dept. of Revenue 955 Center St. NE Salem, OR

Hearing Officer: Rick Schack

Stat. Auth.: ORS 305.100; Other Auth.: ORS 315.113

Stats. Implemented: OR Laws 2003, Chap. 541, Sect. 3; ORS 314.295, 314.385, 314.415, 314.505, 314.610, 314.615, 314.655, 314.665, 314.840, 315.113, 315.262, 316.054, 316.127

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: OAR 150-OR Laws 2003, Chap. 541, Sect. 3; 150-314.295, 150-314.665(6)(c), 150-315.113

Proposed Amendments: 150-314.385(c)-(B), 150-314.505-(A), 150-314.610(1)-(A), 150-314.610(1)-(B), 150-314.610(1)-(C), 150-314.615-(F), 150-314.655(2)-(B), 150-314.840, 150-315.262, 150-316.054, 150-316.127-(D);

Proposed Ren. & Amends: 150-314.415(1)(b) to 150-314.415(1)(b)-(B), 150-314.415(1)(c) to 150-314.415(1)(b)-(A)

Last Date for Comment: 12-2-03

Summary: These proposed changes are to adopt, amend, or amend and renumber administrative rules relating to Personal Income Tax, Corporation Income and Excise Tax, and disclosure of information. **Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Xann-Marie Culver

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 947-2099

Department of Transportation Chapter 731

Date:	Time:	Location:
11-25-03	9 a.m.	ODOT Bldg. Rm. 125 355 Capitol St. NE Salem, OR

Hearing Officer: Brenda Trump

Stat. Auth.: ORS 183.341, 184.616 & 184.619

Stats. Implemented: ORS 183.335 & 183.341

Proposed Amendments: 731-001-0000

Last Date for Comment: 11-25-03

Summary: This rule provides for notice to the public of rulemaking by the Department of Transportation. The amendment clarifies that notice will be provided in compliance with this rule for all proposed permanent rulemakings, rather than any rulemaking.

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

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Stat. Auth.: ORS 184.616, 184.619 & 279.049

Stats. Implemented: ORS 279.027 & 279.322

Proposed Amendments: 731-007-0050

Proposed Repeals: 731-007-0050(T)

Last Date for Comment: 12-10-03

Summary: The amendment to this rule will ensure the Agency's rules are in compliance with the state statutes. The 2003 Legislature passed HB 3422 (Oregon Laws 2003, Chapter 535) during the 2003 session, with an effective date of August 1, 2003. This bill modified the legal requirements for Sub-Contractor Disclosure on Public Improvement Projects. Changes include requiring the bidder to submit to the public contracting agency the first-tier subcontractor disclosure from two working hours (instead of four working hours) after the date and time of the deadline; submittal of the first-tier subcontractor disclosure shall only apply to public improvements with a contract value of more than \$100,000 (instead of \$75,000); and the dollar value of the subcontract will be added to the disclosure form. These changes were adopted by temporary rule effective August 1, 2003 so ODOT could legally advertise and bid projects scheduled to go to contract after August 1, 2003. The department now proposes to make these changes permanent, along with the addition of language in subsection (2)(c) specifying that ODOT will consider contract award only for those bids for which timely disclosure is received.

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, 1905 Lana Ave. NE, Salem, OR 97314

Telephone: (503) 945-5278

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

Date:	Time:	Location:
12-4-03	9 a.m.	ODOT Bldg. Room 122 355 Capitol St. NE Salem, OR

Hearing Officer: Darel Capps

Stat. Auth.: ORS 184.616, 184.619 & 319.510 - 319.880; Other Auth.: OL 2003, Ch. 99 (HB 2997)

Stats. Implemented: ORS 319.510 - 319.880

Proposed Adoptions: 735-176-0015, 735-176-0018

Proposed Amendments: 735-176-0000, 735-176-0010, 735-176-0020, 735-176-0030, 735-176-0040

Last Date for Comment: 12-10-03

Summary: Division 176 rules relate to taxation of Use Fuel in Oregon. The majority of the proposed changes are necessary to administer new statutes created by House bill 2997 (Chapter 99, Oregon Laws 2003) passed during the 2003 Legislative Session. Specifically:

- New rule 735-176-0015 describes the fuel sales documentation and customer identification requirements for sellers of fuel at non-retail facilities.

- New rule 735-176-0018 describes tax collection requirements for special situations where non-retail and retail facilities are operated separated by distance or by time of sale.

Amendments are also proposed to replace or delete outdated or unnecessary language.

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

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

Rules Coordinator: Brenda Trump

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

Telephone: (503) 945-5278

Date:	Time:	Location:
12-2-03	10:30 a.m.	ODOT Bldg. Rm. 122 355 Capitol St. NE Salem, OR

Hearing Officer: Stan Porter

Stat. Auth.: ORS 184.616, 184.619 & 821.030

Stats. Implemented: ORS 821.010 - 821.040

Proposed Amendments: 735-116-0000

Last Date for Comment: 12-10-03

Summary: The amendment to this rule is necessitated by legislation passed during the 1999 and 2001 Legislative Assemblies. In 1999, ORS 821.020 was amended changing the location in the state where the rule applies. In 2001 one equipment change was made in the statute for vehicles operating on sand. Neither of these changes was timely reflected by amendment of OAR 735-116-0000. Confusion to the public and law enforcement over equipment requirements will be avoided with the rule amendment and increase flag use and operational safety by such flag use. These amendments were adopted by temporary rule effective July 17, 2003 and are now being made as permanent amendments. There are additional changes proposed to clarify the types of vehicles that are included as "off-road vehicles," minor editorial changes and to specify the requirement for headlights and taillights. Lights are required by ORS 821.040, however, the

NOTICES OF PROPOSED RULEMAKING

requirements are being added to the rule for the convenience of the reader.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.odot.state.or.us/rules/>
**Auxiliary aids for persons with disabilities are available upon advance request.*

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

Stat. Auth.: ORS 184.616, 184.619 & 802.600
Stats. Implemented: ORS 802.600
Proposed Repeals: 735-061-0010, 735-061-0020, 735-061-0030, 735-061-0040, 735-061-0050, 735-061-0060, 735-061-0070, 735-061-0080, 735-061-0090, 735-061-0100, 735-061-0110, 735-061-0120, 735-061-0130, 735-061-0140, 735-061-0150, 735-061-0160, 735-061-0170, 735-061-0180, 735-061-0190, 735-061-0200

Last Date for Comment: 12-10-03
Summary: The rules in OAR Chapter 735, Division 61 established a pilot program in which DMV entered into agreements with private contractors and certified them to perform Class C knowledge, safe driving practices and driving skills testing on behalf of the department under the authority of ORS 802.600. This pilot program began in January of 2000 and will end on November 3, 2003. DMV is now proposing to repeal the rules that established the pilot program because this pilot program is ending.

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

Department of Transportation, Highway Division Chapter 734

Stat. Auth.: ORS 184.616, 184.619 & 815.045
Stats. Implemented: ORS 815.045, 815.145 & 815.165
Proposed Amendments: 734-017-0005
Last Date for Comment: 12-10-03

Summary: The 72nd Oregon Legislative Assembly passed Senate Bill 666 (Oregon Laws 2003, Chapter 757) which exempted regularly scheduled medical transport service motor vehicles from the prohibition on use of tires with metal objects. For the purposes of this exemption the term "medical transport service vehicle" need to be defined.

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

Rules Coordinator: Brenda Trump
Address: Department of Transportation, Highway Division, 1905 Lana Ave. NE, Salem, OR 97314
Telephone: (503) 945-5278

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Date:	Time:	Location:
12-2-03	9 a.m.	ODOT Bldg. Rm. 122 355 Capitol St. NE Salem, OR

Hearing Officer: Craig Bonney
Stat. Auth.: ORS 823.011 & 825.232
Stats. Implemented: ORS 810.560, 825.210 & 825.250
Proposed Adoptions: 740-100-0015
Last Date for Comment: 12-10-03

Summary: This proposed rule establishes the qualifications and requirements that a person must meet for commercial vehicle inspector certification, standards for maintaining certification and grounds for revoking certification. The Oregon Forests Products Transportation Association requested that the rule be adopted in order to enhance commercial vehicle safety inspection uniformity among the various governmental agencies that conduct inspections in Oregon.

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, Motor Carrier Transportation Division, 1905 Lana Ave. NE, Salem, OR 97314
Telephone: (503) 945-5278

Division of State Lands Chapter 141

Date:	Time:	Location:
12-5-03	11 a.m.-1 p.m.	Land Board Rm. Division of State Lands 775 Summer St. NE Salem, Oregon 97301-1279

Hearing Officer: Jeff Kroft
Stat. Auth.: ORS 273.571(7) & 192.440(3); Other Auth.: OAR 141-0050-0999
Stats. Implemented: ORS 273.563 - 273.91
Proposed Amendments: Rules in 141-050
Last Date for Comment: 12-17-03

Summary: The Natural Heritage Plan, established under ORS 273.567, is an administrative rule that is updated every five years and is subject to adoption by the State Land Board. The Plan provides the framework under which the Oregon Natural Heritage Program creates and manages Oregon's system of Natural Heritage Conservation Areas. The Plan lists the natural heritage elements that should be represented on the register and provides criteria for the selection and approval of candidate natural areas for registration and dedication. The last revision to this Plan was in 1998. Proposed revisions to it have recently been completed and are available for public review and comment. Printed copies of the revised Plan can be obtained from Oregon Natural Heritage Information Center, 1322 SE Morrison Street, Portland, Oregon 97214-2531, (503) 731-3070. The revised Plan can also be found at: <http://oregonstate.edu/ornhic/draftplan.pdf>

The Division of State Lands will conduct a public hearing on Friday, December 5, 2003 in Salem as indicated above to obtain public input on the revised Plan. At this hearing, a member of the Natural Heritage Advisory Council will describe the proposed amendments to the Plan and accept oral and written testimony.

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

Rules Coordinator: Nicole Kielsmeier
Address: Division of State Lands, 775 Summer St. NE, Salem, OR 97301-1279
Telephone: (503) 378-3805, ext. 239

Employment Department Chapter 471

Date:	Time:	Location:
11-17-03	9 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthé
Stat. Auth.: ORS 657.732 & 657.734
Stats. Implemented: ORS 657.732 & 657.734
Proposed Amendments: 471-012-0010, 471-012-0015, 471-012-0020, 471-015-0005, 471-015-0010, 471-015-0015, 471-015-0020
Last Date for Comment: 11-17-03, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The Employment Department is proposing to amend these rules as a result of SB 250 (2003 Legislative Session). No new information will be input into the Shared Information System after December 31st, 2003, and "system participants" will now make use of the Performance Reporting Information System to collect, analyze and share statistical and demographic data for the development and reporting of workforce system performance measures.

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

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

Date:	Time:	Location:
11-17-03	11 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe
Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.610 & 657.260
Proposed Amendments: 471-030-0040, 471-030-0045
Last Date for Comment: 11-17-03, 5 p.m.

Summary: The Employment Department is proposing to amend the "Filing of Initial, Additional, Reopened Claims", and the "Continued Claims" rules to clarify the criteria and processes that will be used when filing these claims.

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

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

Date:	Time:	Location:
11-17-03	1 p.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe
Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.610 & 657.405 - 657.575
Proposed Adoptions: Rules in 471-031
Proposed Amendments: 471-031-0076, 471-031-0140, 471-031-0141
Last Date for Comment: 11-17-03, 5 p.m.

Summary: The Employment Department is proposing to amend these rules to clarify processes for reporting and paying Unemployment Insurance taxes.

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

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

Employment Department, Child Care Division Chapter 414

Date:	Time:	Location:
11-20-03	9 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe
Stat. Auth.: ORS 657A.030
Stats. Implemented: ORS 657A.030
Proposed Amendments: 414-061-0000, 414-061-0010, 414-061-0020, 414-061-0030, 414-061-0040, 414-061-0050, 414-061-0060, 414-061-0070, 414-061-0080, 414-061-0090, 414-061-0100, 414-061-0110, 414-061-0120

Last Date for Comment: 11-20-03, 5 p.m.
Summary: The Employment Department is proposing to amend the "Criminal History Registry" rules to clarify the criteria that will be used in order to determine who may be enrolled in the Registry.
**Auxiliary aids for persons with disabilities are available upon advance request.*

Rules Coordinator: Richard L. Luthe
Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311
Telephone: (503) 947-1724

Date:	Time:	Location:
11-20-03	11 a.m.	Employment Dept. Auditorium 875 Union NE Salem, OR 97311

Hearing Officer: Richard Luthe
Stat. Auth.: ORS 657A.706, 657A.712, 657A.715 & 657A.718
Stats. Implemented: ORS 657A.700 - 657A.718
Proposed Adoptions: 414-700-0000, 414-700-0010, 414-700-0020, 414-700-0030, 414-700-0040, 414-700-0050, 414-700-0060, 414-700-0070, 414-700-0080, 414-700-0090
Last Date for Comment: 11-20-03, 5 p.m.

Summary: The Employment Department, Child Care Division, is proposing to implement a new rule in response to HB 3184 (ORS Chapter 657A.700 through 657A.718), which creates a new tax credit for certified contributions to the Child Care Division and/or a qualified community agency for the purpose of promoting child care; and establishes a fund for collecting these contributions.

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

Rules Coordinator: Richard L. Luthe
Address: Employment Department, Child Care Division, 875 Union St. NE, Salem, OR 97311
Telephone: (503) 947-1724

Office of Energy Chapter 330

Date:	Time:	Location:
12-3-03	1:30 p.m.	Oregon Dept. of Energy Salem, OR

Hearing Officer: Suzanne Dillard
Stat. Auth.: ORS 469.160 - 469.180
Stats. Implemented:
Proposed Amendments: 330-070-0010 - 330-070-0097
Last Date for Comment: 12-10-03

- Summary:** The purpose of the proposed rule changes are to:
1. Modify appliance eligibility rules to reflect changes in new federal standard testing procedures or test results. Credit amounts will be recomputed to reflect the amount of energy used by products.
 2. Allow ECM hydronic air handlers to qualify for credit.
 3. Update rules covering renewable energy technologies. Areas to be addressed include: coordinate with utility incentive programs; solar contractor certification; solar water heater yield calculations and technical requirements; and standards governing dual purpose systems. (space and water heater)
 4. Update rules governing duct system standards and approved testing protocols.
 5. Update rules to clarify eligibility for dealer owned used and leased vehicles. Define eligible cost for incremental cost of vehicle.

Interested persons may attend an advisory committee meeting to review and comment on the proposed changes on November 20, 2003 at 1:30 p.m. at the Oregon Department of Energy, 625 Marion St. NE, Salem, Oregon.

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

Rules Coordinator: Kathy Stuttaford

NOTICES OF PROPOSED RULEMAKING

Address: Office of Energy, 625 Marion St. NE, Salem, OR 97301-3742
Telephone: (503) 378-4128

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Date: 12-3-03 **Time:** 9:30 a.m. **Location:** Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301

Hearing Officer: Suzanne Dillard

Stat. Auth.:

Stats. Implemented:

Proposed Amendments: 330-090-0105 - 330-090-0150

Last Date for Comment: 12-10-03

Summary: The main purpose of this rulemaking session is to address and update the following issues: Adopting optional prescriptive measures for Rental Dwelling Weatherization projects. Update and revise eligibility standards in the areas of transportation, sustainability, and photovoltaics. Refine procedures and definitions for the Pass-Through option process. Modify the pre-cert process for hybrid electric vehicles. Modify and update Business Energy Tax Credit minimum efficiency standards.

Other housekeeping changes will be considered. Those may include reformatting definitions for clarification, changing language to improve the application review process or other changes required to better meet the objectives of Oregon Revised Statute 469.185.

Interested persons may attend advisory meeting to review and comment on proposed changes on November 20, 2003 at 9:30 a.m. at the Department of Energy.

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

Rules Coordinator: Kathy Stuttaford

Address: Office of Energy, 625 Marion St. NE, Salem, OR 97301-3742

Telephone: (503) 378-4128

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Oregon Criminal Justice Commission
Chapter 213

Stat. Auth.: ORS 137.667 & 421.512

Stats. Implemented: OL 2003 Chs. 111 (HB 2119), 157 (SB 174), 158 (SB 181), 178 (SB 256), 248 (SB 832), 287 (HB 3339), 291 (HB 2206), 320 (SB 306), 327 (SB 487), 332 (SB 603), 338 (SB 739), 346 (HB 2885), 357 (SB 122), 362 (SB 200), 383 (HB 3317), 385 (HB 3363), 404 (SB 304), 428 (SB 65), 444 (SB 46), 445 (SB 348), 448 (HB 2034), 453 (HB 2174), 464, HB 2647, 484 (HB 2086), 527 (HB 2727), 529 (HB 2736), 543 (SB 564), 547 (HB 2325), 550 (SB 189), 577 (HB 2770), 603 (SB 610), 610 (HB 2783), 632 (HB 3296), 633 (HB 3318), 645 (HB 2865), 655 (SB 468), 695 (SB 342), 749 (HB 3120), 801 (HB 2094), 804 (HB 2368) & 815 (SB 421)

Proposed Amendments: 213-001-0000, 213-001-0005, 213-003-0001, 213-004-0002, 213-004-0003, 213-005-0001, 213-005-0003, 213-005-0004, 213-005-0007, 213-005-0014, 213-011-0002, 213-011-0003, 213-013-0001, 213-017-0001, 213-017-0002, 213-017-0003, 213-017-0004, 213-017-0005, 213-017-0006, 213-017-0007, 213-017-0008, 213-017-0009, 213-017-0010, 213-017-0011, 213-018-0038, 213-018-0050, 213-018-0090, 213-019-0007, 213-019-0008, 213-019-0010, 213-019-0011

Last Date for Comment: 11-21-03

Summary: ORS 137.667 directs the Commission to review crime-related legislation and adopt necessary changes to the sentencing guidelines rules. Those changes include establishing crime seriousness rankings for new or modified felony crimes and designating certain felonies and Class A misdemeanors as "person" crimes, as well as other possible changes. The proposed rules comply with that directive and will correct statutory citations and make other technical or housekeeping corrections.

Rules Coordinator: Phillip Lemman

Address: Oregon Criminal Justice Commission, 635 Capitol St. NE, Suite 350, Salem, OR 97301
Telephone: (503) 986-6495

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Oregon Department of Aviation
Chapter 738

Stat. Auth.: ORS 835.035, 835.040 & 835.112

Stats. Implemented: ORS 835.015, 835.035, 835.040, 835.112, 836.025 & 836.055

Proposed Amendments: 738-001-0001, 738-001-0006, 738-001-0025, 738-001-0030, 738-015-0015, 738-025-0001, 738-025-0010, 738-090-0040, 738-100-0010

Proposed Repeals: 738-030-0005, 738-030-0010, 738-030-0015, 738-030-0020, 738-030-0025, 738-110-0010, 738-110-0020, 738-110-0030, 738-110-0040, 738-110-0050

Last Date for Comment: 12-15-03

Summary: Proposed amendments to OAR 738-001 update outdated statutory references and dates referring to the State Attorney General's Model Rules of Procedures; some rule numbers referenced in this section have also been updated. Amendments to OAR 738-015 simply eliminate unnecessary verbiage that complicates clear understanding of the rule. An important statutory reference was added to OAR 738-025, as well as one key word that aids in interpreting this rule in the context of the State Fire Marshal's Administrative Rules. The citation to land use laws in OAR 738-090 has been updated to cite key administrative rules more recently adopted by the Department of Land Conservation and Development following original adoption of OAR 738-090. Amendments to OAR 738-100 consist only of references to newly adopted administrative rules.

Repeal of OAR 738-030 is recommended because this rule has been replaced by OAR 738-035 Operating Minimum Standards for State-Owned Airports. Proposed repeal of OAR 738-110 is based on the fact that this rule was written in 1989, a point in history when Legislative Counsel renumbered all Oregon Revised Statutes and required changes in all OAR citations to OARs. Now, nearly 15 years later, this rule is no longer needed.

Rules Coordinator: Carolyn R. Bolton

Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125

Telephone: (503) 378-4880, ext. 223

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Oregon Department of Education
Chapter 581

Date: 11-18-03 **Time:** 3 p.m. **Location:** Public Service Bldg.,
255 Capitol St. NE
Salem, OR
Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 337.050

Stats. Implemented: ORS 337.050

Proposed Amendments: 581-011-0073

Last Date for Comment: 11-18-03

Summary: Adoption of instructional materials as specified in ORS 337.050 is done through the administrative rule making process. The amendment of OAR 581-011-0073 will add to the reference list programs in Second languages in the following categories:

- 1) Elementary Spanish - Grades K-5/6
- 2) Secondary Spanish - Grades 6-12
- 3) Secondary French - Grades 6-12
- 4) Secondary German - Grades 6-12

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

Rules Coordinator: Debby Ryan

Address: Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203

Telephone: (503) 378-3600, ext. 2348

NOTICES OF PROPOSED RULEMAKING

Date: 11-18-03
Time: 3 p.m.
Location: Public Service Bldg.
255 Capitol St. NE
Salem, OR
Room 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.035

Proposed Adoptions: 581-011-0150

Last Date for Comment: 11-18-03

Summary: ORS 337.035 requires the State Board to adopt criteria for the selection and adoption of instructional materials. Following the adoption schedule, instructional materials for Social Science are the next to be adopted. A committee of teachers from around the state met in October 2003, to review the Social Science criteria from the last adoption cycle and develop new criteria for the upcoming adoption cycle. The committee compiled new criteria and recommends these criteria to the State Board for adoption.

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

Rules Coordinator: Debby Ryan

Address: Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203

Telephone: (503) 378-3600, ext. 2348

Date: 11-18-03
Time: 3 p.m.
Location: Public Service Bldg.
255 Capitol St. NE
Salem, OR
Rm. 251-A

Hearing Officer: Mike Reed

Stat. Auth.: ORS 326.603; Other Auth.: OAR 581-022-1730

Stats. Implemented: ORS 326.603

Proposed Amendments: 581-022-1730

Last Date for Comment: 11-18-03

Summary: Changes in statutes and recordkeeping have changed the methods the court enters certain and seals certain records. This change helps define what a conviction is and how out-of-state records will be considered in Oregon.

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

Rules Coordinator: Debby Ryan

Address: Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203

Telephone: (503) 378-3600, ext. 2348

Stat. Auth.: ORS 343.236, 343.055, 343.157, 343.151, 343.261, 343.173, 336.585, 326.051, 343.534, 326 & 323.055

Stats. Implemented: ORS 343.236, 343.055, 343.151, 343.261, 343.173, 326.695-712, 336.585, 343.521, 343.527, 343.531 & 343.041

Proposed Amendments: 581-015-0017, 581-015-0053, 581-015-0074, 581-015-0108, 581-015-0109, 581-015-0141, 581-015-0291, 581-015-0293, 581-015-0294, 581-015-0301, 581-015-0606, 581-015-0704, 581-015-0705, 581-015-0706, 581-015-0940, 581-015-0941, 581-015-0949

Last Date for Comment: 11-21-03

Summary: These Special Education rules were filed as permanent rules, April 2003, after going to administrative rule hearing and then approved by the State Board of Education; however, they were not sent to Legislative Counsel within 10 days of filing. We are filing a Notice of Proposed Rulemaking and will include a copy to Legislative Counsel within 10 days of filing this notice

Please contact Debby Ryan at (503) 378-3600, ext. 2348 or e-mail debby.ryan@state.or.us if you would like a copy of a rule. Please contact Suzy Harris at (503) 378-3600, ext. 2333 if you have questions regarding a rule.

Rules Coordinator: Debby Ryan

Address: Oregon Department of Education, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310-0203

Telephone: (503) 378-3600, ext. 2348

Oregon Economic and Community Development Department Chapter 123

Stat. Auth.: ORS 285A.075(5) & 285A.110(1)

Stats. Implemented: ORS 285B.572 - 285B.599

Proposed Adoptions: Rules in 123-043

Proposed Amendments: Rules in 123-043

Last Date for Comment: 2-27-04

Summary: The administrative rules for the Water Fund are being revised to describe the maximum amount of grant funds that can awarded under the program and the requirements for qualifying for various grant amounts from the program.

Rules Coordinator: Steven Santos

Address: Oregon Economic and Community Development Department, State Lands Bldg., Suite 200, 775 Summer St. NE, Salem, OR 97301-1280

Telephone: (503) 986-0102

Oregon Liquor Control Commission Chapter 845

Date: 11-24-03
Time: 10 a.m.
Location: 9079 SE McLoughlin Blvd.
Portland, OR 97222

Hearing Officer: Katie Hilton

Stat. Auth.: ORS 471, 471.030 & 471.730

Stats. Implemented: ORS 471.430

Proposed Amendments: 845-006-0335

Last Date for Comment: 12-8-03

Summary: The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of Oregon's citizens. As a policy-making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. The Oregon statutory framework gives the Commission the duty to identify licensed premises or portions of premises where minors are prohibited. There are narrow statutory exceptions. The general premise embodied in rule is that minors should not be in places where there is a "drinking environment", defined as a place where drinking is the primary activity. Exceptions to the prohibition of minors in drinking environments envision limited exposure to drinking environments. For example, ORS 471.482(3) only allows the Commission to permit access to prohibited areas for employment purposes "as long as the minor does not remain longer than is necessary to perform the duties." When crafting exceptions by rule, the Commission must seek to retain this very limited framework designed for public safety purposes.

In some businesses, minor entertainers mingle with and interact with adult patrons before and after their stage performances. The minors sell musical tapes, t-shirts, products associated with the licensed premises, and in some cases, solicit private (table/couch/lap) dances. The Commission is concerned that these activities, which involve minors directly interacting with adult drinking customers, do not comport with the statutory framework the OLCC must administer. The proposed amendments would remove rule language which allows minor entertainers to perform in areas posted as prohibited to them. The proposed amendments would also bar minor vendors or contractors from prohibited areas, except when the licensed premises is totally closed for business. All of the proposed measures are designed to improve the public safety of minors.

The Commission announced in the October 1, 2003 Bulletin that it would begin rulemaking on this matter. The Commission has since received a request for oral hearing. Per ORS 183.335(3)(a), this notice is in response to the request for an oral hearing.

NOTICES OF PROPOSED RULEMAKING

**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

Stat. Auth.: ORS 471, 471.030, 471.730(1) & 471.730(5)
Stats. Implemented: ORS 471.750(1)
Proposed Amendments: 845-015-0140

Last Date for Comment: 11-21-03
Summary: OAR 845-015-0140 is the rule by which the commission lays out its service requirements of retail sales agents in terms of days and hours of operation. Current rule language prohibits Sunday sales, and lists a number of holidays upon which agencies must be closed.

With the passage of HB 4028, effective April 12, 2002, the Commission needs to amend OAR 845-015-0035 to agree with statutory language. The proposed amendments would allow retail sales agents the option of being open on Sundays and holidays, with no minimum operating hours on Sundays and holidays.

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

Stat. Auth.: ORS 471, 471.030 & 471.730
Stats. Implemented: ORS 471.430
Proposed Amendments: 845-006-0335
Last Date for Comment: 11-21-03

Summary: The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of Oregon's citizens. As a policy-making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. The Oregon statutory framework gives the Commission the duty to identify licensed premises or portions of premises where minors are prohibited. There are narrow statutory exceptions. The general premise embodied in rule is that minors should not be places where there is a "drinking environment" defined as a place where drinking is the primary activity. Exceptions to the prohibition of minors in drinking environments envision limited exposure to drinking environments. For example, ORS 471.483(3) only allows the Commission to permit access to prohibited areas for employment purposes "as long as the minor does not remain longer than is necessary to perform the duties." When crafting exceptions by rule, the Commission must seek to retain this very limited framework designed for public safety purposes.

In some businesses, minor entertainers mingle with and interact with adult patrons before and after their stage performances. The minors sell musical tapes, t-shirts, products associated with the licensed premises, and in some cases, solicit private (table/couch/lap) dances. The Commission is concerned that these activities, which involve minors directly interacting with adult drinking customers, do not comport with the statutory framework OLCC must administer. The proposed amendments would remove rule language which allows minor entertainers to perform in areas posted as prohibited to them. The proposed amendments would also bar minor vendors or contractors from prohibited areas except when the licensed premises is totally closed for business. All of the proposed measures are designed to improve the public safety of minors.

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

Oregon Public Employees Retirement System Chapter 459

Date: 11-20-03	Time: 10 a.m.	Location: Conference Rm. Archives Bldg. 800 Summer St. NE Salem, OR
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Hearing Officer: Yvette Elledge
Stat. Auth.: ORS 238.630 & 238.650
Stats. Implemented: ORS 238.630(3)(g) & OL 2003 Ch. 67, 68 & 625

Proposed Amendments: 459-005-0055
Last Date for Comment: 12-31-03

Summary: The proposed rule modification pertains to Actuarial Equivalency Factors and the methodology for implementing new factors. Modifications to this rule incorporate the provisions in HB 2004 including amendments to it made by HB 2003 §40 and HB 3020 §16.

The legislation mandated regularly scheduled updates of the actuarial equivalency factors that are used in the calculation of retirement benefits. For effective retirement dates of July 1, 2003, to January 1, 2005, PERS must use new actuarial equivalency factor tables. These tables will be based on the mortality assumptions adopted by the Board on September 10, 2002. Retirees will be subject to a "look-back" calculation to compare the benefit under the old and the new tables. In addition, beginning on January 1, 2005, the PERS Board must adopt actuarial equivalency factor tables every two calendar years, to be effective January 1 or each odd numbered year.

The proposed rule is available to any person upon request. The rule is also available at <http://www.pers.state.or.us>. Public comment may be mailed to the above address or sent via email to yvette.s.elledge@state.or.us

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

Rules Coordinator: Yvette S. Elledge
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Date: 11-18-03	Time: 6:30 p.m.	Location: Boardroom PERS Headquarters 11410 SW 68th Pkwy. Tigard, OR
11-24-03	10:30 a.m.	Room 3 Lane Education Service Dist. 1200 Hwy. 99 N Eugene, OR

Hearing Officer: Yvette Elledge, Brendalee Wilson
Stat. Auth.: ORS 238.650 & OL 2003 Ch. 733
Stats. Implemented: OL 2003 Ch. 733
Proposed Adoptions: 459-070-0001, 459-070-0100, 459-070-0110, 459-075-0010, 459-075-0030, 459-075-0100, 459-080-0010, 459-080-0100, 459-080-0500
Proposed Amendments: 459-009-0100
Proposed Repeals: 459-009-0110
Last Date for Comment: 11-26-03

Summary: New administrative rules are needed to implement and clarify Enrolled House Bill 2020, which establishes the Oregon Public Service Retirement Plan. OAR 459-070-0001 defines terms used in Divisions 070, 075 and 080. OAR 459-070-0100 directs participating employers to submit required data to PERS on the pay date of each pay period and specifies penalties for incomplete or late reporting. OAR 459-070-0110 directs participating employers to remit employee and employer contributions to PERS for each pay period and specifies penalties for incomplete or late remittances. OAR 459-075-0010 clarifies the requirements for becoming a member of the pension program and how a "break in service" affects PERS members. OAR 459-075-0030 limits the amount of overtime salary that can be considered for purposes of final average salary.

NOTICES OF PROPOSED RULEMAKING

OAR 459-075-0100 implements USERRA with respect to the pension program. OAR 459-080-0010 specifies the requirements for becoming a member of the individual account program. OAR 459-080-0100 implements USERRA with respect to the individual account program. OAR 459-080-0500 clarifies annual addition limitations for member accounts. OAR 459-009-0100 is being amended to direct employers to transmit reports and contributions to PER in accordance with OAR 459-070-0100 and 459-070-0110. OAR 459-009-0110 is being repealed because penalties are addressed or OAR 459-070-0100 and 459-070-0110. The proposed rules are available to any person upon request. The rules are also available at <http://www.pers.state.or.us>. Public comment may be mailed to the above address or sent via email to yvette.s.elledge@state.or.us

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

Rules Coordinator: Yvette S. Elledge
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Date:	Time:	Location:
11-20-03	11 a.m.	Conference Rm. Archives Bldg. 800 Summer St. NE Salem, OR

Hearing Officer: Yvette Elledge
Stat. Auth.: ORS 238.610 & 238.650
Stats. Implemented: ORS 238.610 & OL 2003 Ch. 105
Proposed Adoptions: 459-005-0250
Last Date for Comment: 11-26-03

Summary: The proposed new rule pertains to charging fees for retirement benefit estimates to recover actual administrative costs to the system. Members within two years of eligibility for retirement will continue to be offered two estimates per calendar year at no charge, but the new rule states that any additional estimates will cost the member \$60 per estimate. Statutory authority to recover costs was granted in HB 2401 §5, effective January 1, 2004.

The proposed rule is available to any person upon request. The rule is also available at <http://www.pers.state.or.us>. Public comment may be mailed to the above address or sent via email to yvette.s.elledge@state.or.us

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

Rules Coordinator: Yvette S. Elledge
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

Date:	Time:	Location:
11-20-03	9 a.m.	Conference Rm. Archives Bldg. 800 Summer St. NE Salem, OR

Hearing Officer: Yvette Elledge
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.415
Proposed Amendments: 459-035-0050
Last Date for Comment: 11-26-03
Summary: OAR 459-035-0050 outlines the collection of data and the calculation method for the Retiree Health Insurance Premium Account premium subsidy for eligible State of Oregon retirees. This proposed rule modifications affects the factor identified on OAR 459-035-0050(2)(b)(E)(iii) that is used in the calculation of the subsidy. The factor is the estimated ratio of non-Medicare retiree claims cost to active member claims cost. This factor must be recalculated every three years as required in 459-035-0050(3).

The proposed rule is available to any person upon request. The rule is also available at <http://www.pers.state.or.us>. Public comment may

be mailed to the above address or sent via email to yvette.s.elledge@state.or.us

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

Rules Coordinator: Yvette S. Elledge
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

**Oregon State Library
Chapter 543**

Date:	Time:	Location:
12-12-03	10 a.m.	West Linn Public Library 1596 Burns St. West Linn, OR

Hearing Officer: Freda Varr
Stat. Auth.:
Stats. Implemented: ORS 357.206 amended by Sec. 1 SB12, 357.209 amended by Sec. 1 SB12 & 357.212 amended by Sec. 3 SB12
Proposed Adoptions: 543-060-0000, 543-060-0010, 543-060-0020, 543-060-0030, 543-060-0040, 543-060-0060
Proposed Repeals: 543-050-0000, 543-050-0020, 543-050-0030, 543-050-0040, 543-050-0050
Last Date for Comment: 12-12-03

Summary: SB 12, enacted by the 2003 Regular Session of the Oregon Legislative Assembly, eliminates reimbursements to libraries that make interlibrary loans, and establishes matching grants or other assistance for purposes of licensing electronic databases and facilitating statewide ground delivery of library materials. It further declares an emergency, effective July 1, 2003. The implementation of the electronic database licensing component of SB 12 has immediate ramifications due to existing contracts, with payment deadlines of September 1, 2003. This being the case, it is necessary to implement and administer the database subsidy component without delay.

**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: James B. Schepcke
Address: Oregon State Library, State Library Building
2500 Winter St. NE, Salem, OR 97301
Telephone: (503) 378-4243, ext. 243

**Oregon University System
Chapter 580**

Date:	Time:	Location:
11-24-03	10-11 a.m.	Room 358 Susan Campbell Hall UO, Eugene, OR

Hearing Officer: Nancy Heiligman
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Proposed Amendments: 580-040-0035
Last Date for Comment: 12-1-03
Summary: To establish tuition and fees for Summer Session 2004, including room and board rates.

**Auxiliary aids for persons with disabilities are available upon advance request.*
Rules Coordinator: Marcia M. Stuart
Address: Department of Higher Education, PO Box 3175, Eugene, OR 97403-0175
Telephone: (541) 346-5795

**Parks and Recreation Department
Chapter 736**

Stat. Auth.: ORS 183.341; Other Auth.: ORS 358.617
Stats. Implemented: ORS 183.341(4)
Proposed Amendments: 736-050-0002
Last Date for Comment: 11-21-03

NOTICES OF PROPOSED RULEMAKING

Summary: Makes technical changes to the rule, entitled "Notice of Proposed Rules". The rule change is being proposed on the advice of counsel, to be more consistent with the Attorney General's guidance under the Administrative Procedures Act. The changes are technical and not substantive.

Rules Coordinator: Angie Springer

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

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

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 181.341(4)

Proposed Amendments: 736-001-0000

Last Date for Comment: 11-30-03

Summary: Amend the language in the rule in order for the department to be able to adopt temporary or emergency rules should the need arise. Current language may be interpreted so that any rule would require the same type of notice as a permanent rule. Temporary and emergency rules need to be implemented more quickly.

The amended rule becomes effective upon filing the permanent rule notice.

Rules Coordinator: Angie Springer

Address: Parks and Recreation Department, 725 Summer St. NE, Ste. C, Salem, OR 97301

Telephone: (503) 378-5516

Stat. Auth.: ORS 390.124; Other Auth.: HB 2207, 2003

Stats. Implemented: ORS 181.537(10)

Proposed Adoptions: 736-002-0020 - 736-002-0100

Last Date for Comment: 11-30-03

Summary: House Bill 2207 (Oregon Law 2003, Chapter 200) expands the department's authority to conduct criminal records checks for the purposes of employment decisions. The department already conducts Criminal Records Checks for employees with enforcement authority and management positions. The department intends to use the State of Oregon Law Enforcement Data System (LEDS) to conduct the checks. The information obtained through this system is confidential. The individual may appeal a decision to disqualify them for a position through a contested case process, applicable personnel rules or collective bargaining provisions.

The new rule becomes effective January 1, 2004.

Rules Coordinator: Angie Springer

Address: Parks and Recreation Department, 725 Summer St. NE, Ste. C, Salem, OR 97301

Telephone: (503) 378-5516

Public Utility Commission Chapter 860

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Proposed Amendments: 860-038-0540

Last Date for Comment: 11-21-03

Summary: This proposed permanent rule defines the procedure to enable electric companies to transfer proprietary customer information to an Administrator (described in ORS 757.312(3)(b)(A) and (B)) following written notification to customers, pursuant to electric industry restructuring.

Rules Coordinator: Lauri Salsbury

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

Telephone: (503) 378-4372

Racing Commission Chapter 462

Date:
11-20-03

Time:
10 a.m.

Location:
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 Adoptions: 462-200-0465, 462-200-0640

Last Date for Comment: 11-20-03

Summary: Provides new rules for permitted wagering pools and Across the Board wager.

Rules Coordinator: Carol N. Morgan

Address: Oregon Racing Commission, 800 NE Oregon St. #11, Suite 310, Portland, OR 97232

Telephone: (503) 731-4052

Secretary of State, Archives Division Chapter 166

Date:
11-17-03

Time:
9:30 a.m.

Location:
Archives Building
800 Summer St. NE
Salem, OR

Hearing Officer: Julie Yamaka

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 177.130, 183.370, 192 & 357.885

Proposed Amendments: 166-500-0015, 166-500-0040, 166-500-0045, 166-500-0050, 166-500-0055

Last Date for Comment: 11-17-03

Summary: Amending fees for the Administrative Rules unit to bring them in line with the rest of the Archives Division fees. Formalizing and clarifying publications costs. Amending filing requirements to eliminate outdated references to ASCII formatted text.

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

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310

Telephone: (503) 373-0701, ext. 240

Date:
11-17-03

Time:
9 a.m.

Location:
Archives Building
800 Summer St. NE
Salem, OR

Hearing Officer: Mary Beth Herkert

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005 - 192.170 & 357.805 - 357.895

Proposed Amendments: 166-101-0010, 166-200-0130

Last Date for Comment: 11-17-03

Summary: Amends the retention requirements for County and City Election Records.

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

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310

Telephone: (503) 373-0701, ext. 240

Date:
11-17-03

Time:
10 a.m.

Location:
Archives Building
Large Conference Rm.
Salem, OR

Hearing Officer: Julie Yamaka

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 177.130, 183.370, 192 & 357.885

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 166-001-0000

Last Date for Comment: 11-17-03

Summary: Amending the Notice Rule to include new language provided for Model Rules in the 2001 Attorney General's Administrative Law Manual, including the provision for giving Legislators 49 days notice, and clarifying that notice be given before adoption, amendment or repeal of Permanent rules.

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

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310

Telephone: (503) 373-0701, ext. 240

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

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

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

Stats. Implemented: ORS 246.021, 247.015, 247.176, 247.208, 247.965 & 293.445

Proposed Amendments: 165-002-0005, 165-002-0010, 165-002-0025

Last Date for Comment: 11-25-03

Summary: **165-002-0005** outlines the procedures used to refund fees in excess of the amount legally due. The amendment removes outdated information and makes the rule consistent with state law.

165-002-0010 sets forth the schedule of fees for providing copies, faxes, certified copies, computer disks, and emails to the public. This rule is proposed for amendment to better service our customer requests for information.

165-002-0025 designates the Elections Division as the filing officer for the Secretary of State in chapters 246 through 260. We propose to amend this rule to specify that a document is only considered filed, when it is received in its entirety at the Elections Division.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

Stat. Auth.: ORS 171.051, 171.060, 246.150, 249.009, 249.190, 249.200, 249.205 & 254.548

Stats. Implemented: ORS 171.051, 171.060, 249.009, 249.190, 249.200, 249.205, 245.155 & 254.548

Proposed Amendments: 165-010-0005, 165-010-0060, 165-010-0080, 165-010-0090

Last Date for Comment: 11-25-03

Summary: **165-010-0005** - This rule adopts the *2004 State Candidate's Manual: Major Political Party*; *2004 State Candidates Manual: Nonpartisan*; *2004 State Candidate's Manual: Minor Political Party*; *2004 State Candidate's Manual: Assembly of Electors*; *2004 State Candidate's Manual: Individual Electors*; and the *2004 State Candidate's Manual* and associated forms as the procedures and forms used by candidates filing and running for elected office. In addition this rule designates the *2004 State Candidate's Manual: Minor Political Party* to be used for the formation of a Minor Party.

165-010-0060 - This rule clarifies the procedure for filling a legislative vacancy.

165-010-0080 - This rule updates form SEL 141, the Write-In Candidate Acceptance Form.

165-010-0090 - This amendment deletes the portion of the rule that repeats statutory requirements.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

Stat. Auth.: ORS 246.150, 260.156, 260.159, 260.200 & 260.737

Stats. Implemented: ORS 260.083, 260.156, 260.159, 260.200 & 260.737

Proposed Amendments: 165-012-0005, 165-012-0050, 165-012-0060, 165-012-0230

Last Date for Comment: 11-25-03

Summary: **165-012-0005** - This rule adopts the *2004 Campaign Finance Manual* and associated forms as the procedures and guidelines used for compliance with campaign finance regulation.

165-012-0050 - This rule is amended to streamline the process for reporting the contribution of poll results.

165-012-0060 - This rule is amended to update a statutory reference.

165-012-0230 - This rule is amended to update the electronic filing requirements for committees.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.232 & 260.995

Proposed Amendments: 165-013-0010, 165-013-0020

Last Date for Comment: 11-25-03

Summary: **165-013-0010** - This rule describes the penalty matrix and mitigating circumstances for campaign finance violations.

165-013-0020 - This rule describes the penalty matrix and mitigating circumstances for non-campaign finance election law violations.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

Stat. Auth.: ORS 246.150 & 250.015

Stats. Implemented: ORS 249.865, 249.875, 249.877, 250.015, 250.045 & 250.105

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 165-014-0005

Last Date for Comment: 11-25-03

Summary: 165-014-0005 - This rule adopts the 2004 *State Initiative and Referendum Manual*; 2004 *Recall Manual*; and the 2004 *County Initiative and Referendum Manual* and associated forms as the procedures and forms to be used for the initiative, referendum and recall process.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Date:	Time:	Location:
11-25-03	9 a.m.	900 Court St. NE Salem, OR 97301 Hearing Rm. C

Hearing Officer: Fred Neal

Stat. Auth.: ORS 246.150, 249.009 & 250.015

Stats. Implemented: ORS 249.009 & 250.015

Proposed Amendments: 165-020-0005

Last Date for Comment: 11-25-03

Summary: 165-020-0005 - This rule adopts the 2004 *City Elections Manual* and the 2004 *District Elections Manual* and associated forms as the procedures and forms used for in the city and district elections process.

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

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Stat. Auth.: ORS 246.150, 260.075, 260.118, 260.156 & 260.200

Stats. Implemented: ORS 260.076, 260.118, 260.156 & 260.200

Proposed Repeals: 165-012-0210, 165-012-1000

Last Date for Comment: 11-25-03

Summary: 165-012-0210, and **165-012-1000** are proposed for repeal because the content of these rules has been incorporated into the manuals adopted in OAR 165-012-0005.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Stat. Auth.: ORS 246.150, 250.015 & 250.067

Stats. Implemented: ORS 250.015 & 250.067

Proposed Repeals: 165-014-0006, 165-014-0080, 165-014-0085

Last Date for Comment: 11-25-03

Summary: 165-014-0006, **165-014-0080**, and **165-014-0085** are proposed for repeal because the content of these rules has been incorporated into the manuals adopted in OAR 165-014-0005.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

ADMINISTRATIVE RULES

Board of Accountancy Chapter 801

Adm. Order No.: BOA 1-2003(Temp)
Filed with Sec. of State: 10-15-2003
Certified to be Effective: 10-15-03 thru 3-15-04
Notice Publication Date:
Rules Adopted: 801-001-0050

Subject: This rule is identical to the rule on confidentiality of mediation communications, developed by the Attorney General pursuant to ORS 36.224(2). The rule covers all mediations involving the Board of Accountancy, except those express exclusions. The rule limits information that the mediator may disclose and allows the parties to agree in writing to limit what may be disclosed or used in a subsequent administrative proceeding.

Rules Coordinator: Carol Rives—(503) 378-4181, ext. 26

801-001-0050

Confidentiality and Inadmissibility of Mediation Communications

(1) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(2) Nothing in this rule affects any confidentiality created by other law. Nothing in this rule relieves a public body from complying with the Public Meetings Law, ORS 192.610 to 192.690. Whether or not they are confidential under this or other rules of the agency, mediation communications are exempt from disclosure under the Public Records Law to the extent provided in ORS 192.410 to 192.505.

(3) This rule applies only to mediations in which the agency is a party or is mediating a dispute as to which the agency has regulatory authority. This rule does not apply when the agency is acting as the “mediator” in a matter in which the agency also is a party as defined in ORS 36.234.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) **Mediations Excluded.** Sections (6)-(10) of this rule do not apply to:

(a) Mediation of workplace interpersonal disputes involving the interpersonal relationships between this agency’s employees, officials or employees and officials, unless a formal grievance under a labor contract, a tort claim notice or a lawsuit has been filed; or

(b) Mediation in which the person acting as the mediator will also act as the hearings officer in a contested case involving some or all of the same matters;

(c) Mediation in which the only parties are public bodies;

(d) Mediation involving two or more public bodies and a private party if the laws, rule or policies governing mediation confidentiality for at least one of the public bodies provide that mediation communications in the mediation are not confidential;

(e) Mediation involving 15 or more parties if the agency has designated that another mediation confidentiality rule adopted by the agency may apply to that mediation.

(6) **Disclosures by Mediator.** A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless

(a) all the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) the mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c)-(d), (j)-(l) or (o)-(p) of section (9) of this rule.

(7) **Confidentiality and Inadmissibility of Mediation Communications.** Except as provided in sections (8)-(9) of this rule, mediation communications are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced as evidence by the parties or the mediator in any subsequent proceeding.

(8) **Written Agreement.** Section (7) of this rule does not apply to a mediation unless the parties to the mediation agree in writing, as provided in this section, that the mediation communications in the mediation will be confidential and/or nondiscoverable and inadmissible. If the mediator is the

employee of and acting on behalf of a state agency, the mediator or an authorized agency representative must also sign the agreement. The parties’ agreement to participate in a confidential mediation must be in substantially the following form. This form may be used separately or incorporated into an “agreement to mediate.”

Agreement to Participate in a Confidential Mediation

The agency and the parties to the mediation agree to participate in a mediation in which the mediation communications are confidential and/or nondiscoverable and inadmissible to the extent authorized by OAR 801-001-0050(7), and this agreement.

This agreement relates to the following mediation:

a) (Identify the mediation to which this agreement applies)

b) To the extent authorized by OAR 801-001-0050(7), mediation communications in this mediation are: (check one or more)

___ confidential and may not be disclosed to any other person

___ not admissible in any subsequent administrative proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding

___ not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent administrative, judicial or arbitration proceeding, or introduced as evidence by the parties or the mediator in any subsequent administrative proceeding

c) _____

Name of Agency

_____ Date _____

Signature of Agency’s authorized representative (when agency is a party) or Agency employee acting as the mediator (when Agency is mediating the dispute)

d) _____

Name of party to the mediation

_____ Date _____

Signature of Party’s authorized representative

e) _____

Name of party to the mediation

_____ Date _____

Signature of Party’s authorized representative

(9) **Exceptions to confidentiality and inadmissibility.**

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) Any mediation communication related to the conduct of a licensed professional that is made to or in the presence of a person who, as a condition of his or her professional license, is obligated to report such communication by law or court rule is not confidential and may be disclosed to the extent necessary to make such a report.

(e) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(f) A party to the mediation may disclose confidential mediation communications to a person if the party’s communication with that person is privileged under ORS chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(g) An employee of the agency may disclose confidential mediation communications to another agency employee so long as the disclosure is necessary to conduct authorized activities of the agency. An employee receiving a confidential mediation communication under this subsection is bound by the same confidentiality requirements as apply to the parties to the mediation.

ADMINISTRATIVE RULES

(h) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(i) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(j) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements.

(k) When a mediation is conducted as part of the negotiation of a collective bargaining agreement, the following mediation communications are not confidential and such communications may be introduced into evidence in a subsequent administrative, judicial or arbitration proceeding:

(A) a request for mediation; or

(B) a communication from the Employment Relations Board Conciliation Service establishing the time and place of mediation, or

(C) a final offer submitted by the parties to the mediator pursuant to ORS 243.712; or

(D) a strike notice submitted to the Employment Relations Board.

(l) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(m) Written mediation communications prepared by or for the agency or its attorney are not confidential and may be disclosed and may be introduced as evidence in any subsequent administrative, judicial or arbitration proceeding to the extent the communication does not contain confidential information from the mediator or another party, except for those written mediation communications that are:

(A) attorney-client privileged communications so long as they have been disclosed to no one other than the mediator in the course of the mediation or to persons as to whom disclosure of the communication would not waive the privilege; or

(B) attorney work product prepared in anticipation of litigation or for trial; or

(C) prepared exclusively for the mediator or in a caucus session and not given to another party in the mediation other than a state agency; or

(D) prepared in response to the written request of the mediator for specific documents or information and given to another party in the mediation; or

(E) settlement concepts or proposals, shared with the mediator or other parties.

(n) A mediation communication made to the agency may be disclosed and may be admitted into evidence to the extent the Oregon Board of Accountancy determines that disclosure of the communication is necessary to prevent or mitigate a serious danger to the public's health or safety, and the communication is not otherwise confidential or privileged under state or federal law.

(o) The terms of any mediation agreement are not confidential and may be introduced as evidence in a subsequent proceeding, except to the extent the terms of the agreement are exempt from disclosure under ORS 192.410 to 192.505, a court has ordered the terms to be confidential under ORS 30.402 or state or federal law requires the terms to be confidential.

(p) The mediator may report the disposition of a mediation to the agency at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The agency or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(10) When a mediation is subject to section (7) of this rule, the agency will provide to all parties to the mediation and the mediator a copy of this rule or a citation to the rule and an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.220 - ORS 36.238, ORS 183.335(5) & ORS 673.410
Hist.: BOA 1-2003(Temp), f. & cert. ef. 10-15-03 thru 3-15-04

Board of Chiropractic Examiners Chapter 811

Adm. Order No.: BCE 1-2003

Filed with Sec. of State: 9-17-2003

Certified to be Effective: 9-17-03

Notice Publication Date: 7-1-03

Rules Amended: 811-010-0093

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

Rules Coordinator: Dave McTeague—(503) 378-5816

811-010-0093

Guide to Policy and Practice Questions

The Board's Guide to Policy and Practice Questions, originally dated January 14, 1998, and last amended July 31, 2003, is hereby adopted.

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

Stat. Auth.: ORS 684, ORS 58

Stats. Implemented: ORS 684.150, ORS 684.155

Hist.: BCE 3-1998, f. & cert. ef. 8-4-98; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2003, f. & cert. ef. 9-17-03

Board of Naturopathic Examiners Chapter 850

Adm. Order No.: BNE 4-2003

Filed with Sec. of State: 10-9-2003

Certified to be Effective: 10-9-03

Notice Publication Date: 8-1-03

Rules Amended: 850-010-0035

Subject: This amendment will amend renewal fees.

Rules Coordinator: Anne Walsh—(503) 731-4045

850-010-0035

Fees for Licensure, Examination and Registration

(1) The fee to apply to take the jurisprudence and formulary examinations to be eligible for licensure shall be \$150.

(2) The fee for an initial license to practice naturopathic medicine (including reciprocity) shall be \$150.

(3) The fee for an initial certificate of special competency in natural childbirth shall be \$60.

(4) The biennial license renewal fee for an active Naturopathic license shall be \$550.

(5) The annual license renewal fee for an inactive license shall be \$125.

(6) The annual renewal fee for a retired license shall be \$15.

(7) The annual renewal fee for a certificate of special competency in natural childbirth shall be \$60.

(8) A late fee of \$75 will be charged for any renewal that does not meet the December 15 deadline per OAR 850-010-0195.

(9) The fee to reinstate an expired license to active status shall be \$275 for each year the license was expired, plus a restoration fee of \$150.

Stat. Auth.: ORS 685.100(6)(b) & ORS 685.100(6)(c)

Stats. Implemented: ORS 685.100 & ORS 685.102

Hist.: NE 1-1987(Temp), f. 9-17-87, ef. 10-1-87; NE 1-1988, f. & cert. ef. 3-15-88; NE 1-1996, f. & cert. ef. 10-18-96; NE 2-1997(Temp), f. 12-1-97, cert. ef. 12-2-97 thru 5-31-98; BNE 1-1998(Temp), f. 7-15-98, cert. ef. 8-3-98 thru 1-30-99; BNE 2-1998, f. 7-31-98, cert. ef. 8-3-98; BNE 2-1999, f. & cert. ef. 9-24-99; BNE 5-2000, f. & cert. ef. 12-6-00; BNE 4-2003, f. & cert. ef. 10-9-03

Board of Nursing Chapter 851

Adm. Order No.: BN 9-2003

Filed with Sec. of State: 10-2-2003

Certified to be Effective: 10-2-03

Notice Publication Date: 8-1-03

Rules Amended: 851-031-0005, 851-031-0006, 851-031-0010, 851-031-0060, 851-031-0070

Subject: These rule amendments clarify the term "graduate" for the purpose of licensing individuals who complete certificate and direct

ADMINISTRATIVE RULES

entry masters nursing programs. These rules also replace text that was inadvertently omitted from the previous rule revisions in regard to reentry requirements and the elimination of picture identification for reactivation and reinstatement of nurse licensure.

Rules Coordinator: KC Cotton—(503) 731-4754

851-031-0005

Definitions

(1) "Address of Record" means the home address of a licensee, submitted on the initial application or by written notification of change.

(2) "Application" means a request for licensure including all information identified on a form supplied by the Board and payment of required fee.

(3) "Approved Nursing Program" means a pre-licensure educational program approved by the Board for registered or practical nurse scope of practice; or an educational program in another state or jurisdiction approved by the licensing board for nurses or other appropriate accrediting agency for that state.

(4) "Clinical Component" means a course or session in which a student obtains nursing experience in a practice site. The course or session may relate to activities that use nursing knowledge but not in a direct client/patient interaction, or may relate to nursing practice directly with clients/patients.

(5) "Commission on Graduates of Foreign Nursing Schools (CGFNS)" is a credentials evaluation/testing service for graduates of schools outside the U.S.

(6) "Completed application" means an application and all supporting documents related to licensure requirements.

(7) "Credentials Evaluation" means an independent determination, by a Board approved service, through review of transcripts and other relevant material, whether an educational program is or is not equivalent to nursing education in the United States.

(8) "Delinquent Renewal" means late receipt of a renewal application and fee up to 30 days following license expiration.

(9) "English Language Proficiency" means the ability to use and comprehend spoken and written English at a level sufficient for safety within the scope of practice.

(10) "Examination" means the licensing examination endorsed by the National Council of State Boards of Nursing, Inc. which may be the State Board Test Pool Examination (SBTPE) or the NCLEX-RN® or -PN®.

(11) "Expired license" means that the license has lapsed and is void, the nurse has not renewed Oregon licensure or been granted Retired or Inactive status and is not authorized to practice nursing but may elect to return to active status by meeting the Board's standards.

(12) "Graduate" means to qualify in the field of nursing by completing an approved program from a university, college or school that offers an academic degree, a diploma, a certificate or a transcript denoting fulfillment of an approved program.

(13) "Inactive Nurse" status means that the nurse has applied for inactive status, is not currently authorized to practice nursing in Oregon but may elect to return to active practice by meeting the Board's standards.

(14) "International Nurse" means an individual who is credentialed to practice as a nurse in a country other than the United States or its jurisdictions.

(15) "Limited License" means a registered nurse or practical nurse license with conditions which specifically limit its duration or full use for practice.

(16) "Long Term Care Facility" means a licensed skilled nursing facility or intermediate care facility as those terms are used in ORS 442.015, an adult foster home as defined in ORS 443.705 that has residents over 60 years of age, a residential care facility as defined in ORS 443.400 or an assisted living facility.

(17) "Name Change" means establishing the legal basis through documentation for a change in the name of record.

(18) "Name of Record" means the name to which the applicant is legally entitled, submitted on the initial application, or changed at the written request of the applicant with documentation of the legal basis for the change.

(19) "Official Transcript" means a transcript received directly from the school, bearing the official seal or other designation the school identified, showing the date of graduation or program completion and the degree, diploma or certificate awarded, if applicable.

(20) "Reexamination" means subsequent examination(s) after one or more failures.

(21) "Reactivation" is the process of relicensing after the license is expired 31 or more days.

(22) "Reinstatement" is the process of relicensing when the license has been subject to disciplinary sanction by the Board.

(23) "Retired Nurse" is an honorary title given a nurse previously licensed in good standing in Oregon and does not authorize the nurse to practice nursing.

(24) "United States" or "U.S." includes all states and jurisdictions of the United States.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, 678.050, 678.101, 678.150 & 678.410

Hist.: NB 4-1997, f. 3-6-97, cert. ef. 5-1-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1999, f. & cert. ef. 12-1-99; BN 6-2000, f. & cert. ef. 4-24-00; BN 2-2002, f. & cert. ef. 3-5-02; BN 17-2002, f. & cert. ef. 10-18-02; BN 1-2003, f. & cert. ef. 3-6-03; BN 9-2003, f. & cert. ef. 10-2-03

851-031-0006

General Eligibility, Limits on Eligibility, and Requirements

(1) Eligibility:

(a) Graduation or program completion from an approved nursing program as documented in an official transcript or credentials evaluation:

(A) An applicant for the practical nurse examination shall show evidence of having completed a state approved Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(B) An applicant for the registered nurse examination shall show evidence of having completed, a state approved pre-licensure, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing.

(C) An applicant who graduated from a nursing program outside the United States shall show evidence that the program is equivalent to Practical Nursing, Diploma, Associate Degree, Baccalaureate Degree or Master's Degree Program in Nursing in the U.S.

(b) Successful completion of the examination; and

(c) Current or recent nursing practice as defined in OAR 851-031-0006(3)(e); and

(d) English language proficiency as defined in OAR 851-031-0006(3)(f).

(2) Limits on Eligibility:

(a) If an applicant has a major physical or mental condition that could affect the applicant's ability to practice nursing safely, a physical or psychological assessment may be required, to assist in the determination as to whether or not the applicant's physical or mental health is adequate to serve the public safely.

(b) If an applicant has been arrested, charged or convicted of any criminal offense a determination shall then be made as to whether the arrest, charge or conviction bears a demonstrable relationship to the practice of nursing, in which case licensure may be denied.

(c) If the applicant has past, current or pending disciplinary action in another licensing jurisdiction, the Board shall investigate and may deny licensure.

(d) If the applicant falsifies an application, supplies misleading information or withholds information, such action may be grounds for denial or revocation.

(e) No state constructed examination, challenge examination or other method of licensure examination will be accepted.

(f) The Board shall be the sole judge of all credentials.

(3) General Requirements:

(a) Completed application using forms and instructions provided by the Board, and payment of appropriate fees established by the Board.

(b) Official transcript or credentials evaluation:

(A) Graduates of United States schools of nursing must document graduation or program completion.

(B) Graduates of schools of nursing outside the United States must document graduation and educational equivalency with a credentials evaluation.

(c) Picture Identification:

(A) Passport photograph taken within six months of the date of application;

(B) Submitted on a form, provided by the Board, that has been signed by the applicant;

(C) With photograph and signature of applicant verified by the Dean/Director of school or a Notary Public.

(d) Documentation of successful completion of the examination:

(A) A registered nurse applicant for licensure shall have achieved the following minimum score on the licensure examination:

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(i) Between June 1951 up to and including February 1982, a standard score of 350 or above in each of the five test sections comprising the examination;

(ii) Between July 1982 through June 1988, a comprehensive standard minimum score of 1600 or above;

(iii) Beginning February 1989, a designation of a "Pass" score.

(B) A practical nurse applicant for licensure shall have achieved the following minimum standard score on the licensure examination:

(i) Between June 1951 up to and including April 1988, a comprehensive standard score of 350 or above;

(ii) Beginning October 1988, a designation of a "Pass" score.

(e) Documentation of meeting the nursing practice requirement.

(A) 960 hours of nursing practice, at the level of license sought, within the five years immediately preceding application for licensure; or

(B) Graduation from a Board-approved school of nursing or completion of an approved program within the five years immediately preceding application for licensure; or

(C) Completion of an Oregon State Board of Nursing approved reentry program at the level of license sought, within the two years immediately preceding issuance of licensure.

(f) Demonstration of English proficiency by:

(A) Graduation from or completion of an approved program in the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) the preponderance of clinical experience was in English; or

(B) Graduation from a school of nursing outside of the United States in which:

(i) All classroom instruction was in English; and

(ii) All nursing textbooks were in English; and

(iii) The preponderance of clinical experience was in English; or

(C) Documentation of nursing practice, in English, at level of license sought, in another state in the United States, for at least 960 hours, in the two years preceding application for licensure; or

(D) Demonstration of English proficiency by:

(i) CGFNS Certificate; or

(ii) Passing the Test of English as a Foreign Language (TOEFL) with a minimum score of 560 for the paper version or a minimum score of 220 for the computer version; or

(iii) Passing the Test of English for International Communication (TOEIC) examination with a minimum score of 780; or

(iv) Passing the Michigan English Language Assessment Battery (MELAB) examination with a minimum cut score of 78; or

(v) VISA screen certificate.

(vi) TOEFL, TOEIC and MELAB examinations must be taken within two years of application for licensure;

(vii) Passing the NCLEX examination in another state;

(viii) Graduation from a post-licensure nursing education program in the United States.

(g) Use of documented legal name for licensure. Documents which may be submitted to document a legal name change include birth certificate, marriage license, court order or decree.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050 & ORS 678.150

Hist.: BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03; BN 9-2003, f. & cert. ef. 10-2-03

851-031-0010

Licensure by Examination

(1) Eligibility for Licensure by Examination:

(a) An applicant for registered nurse or practical nurse licensure by examination shall meet all standards for eligibility as established in OAR 851-031-0006; and

(b) Graduates of United States schools shall be allowed to take the licensing examination prior to receipt of an official transcript provided that the school has verified, in writing, completion of all requirements for graduation or program completion. An official transcript shall be on file with the Board before the license is issued.

(2) Authorization of Graduating Students to Schedule the Licensure Examination

(a) The sole purpose of this rule is to allow students to schedule the national licensure examination before graduation or program completion, thereby permitting the student to take said examination any time after graduation.

(b) A student in a Board approved registered nurse or practical nurse education program may be approved for eligibility to test prior to graduation or program completion if the student has met the following conditions:

(A) The examination application and fee is on file with the testing service authorized to administer the examination, and

(B) The licensure application and fee is on file with the Oregon State Board of Nursing, and

(C) An official letter documenting that the student has substantially completed all requirements for graduation from the nursing education program is submitted by the dean or director of the nursing education program, no earlier than six weeks prior to the students' graduation date.

(c) A student granted such approval may schedule the examination but shall not take the examination until after the date of graduation or program completion.

(d) Board approval of the student's eligibility to test does not mean the student has met all the qualifications for licensure. Regardless of the examination results, the license will not be issued until all eligibility standards and requirements have been met.

(3) Limits on Eligibility for Licensure by Examination:

(a) Applicants for licensure by examination who have been previously licensed in another state or country shall be permitted to test no more than three years following application and shall meet the practice and/or reentry requirements as stated in Board rules. For applicants for licensure by examination who have been previously licensed in another state or country re-entry requirements shall be determined from the date the applicant passes the examination.

(b) Applicants for initial licensure by examination (not previously licensed in another state or country) shall be permitted to test no more than three years following graduation or program completion.

(c) An applicant who fails to pass the examination in three years shall not be eligible to reapply for licensure by examination, except that the applicant may subsequently enroll and successfully complete, an approved program of nursing in order to be eligible to reapply for licensure by examination.

(4) Requirements and Procedures — Application for Licensure by Examination:

(a) An applicant for registered nurse or practical nurse licensure by examination shall meet all requirements as established in OAR 851-031-0006;

(b) The examination registration and fee shall be filed with the testing service authorized to administer the examination; and

(c) The licensure application and fee shall be filed with the Oregon State Board of Nursing.

(d) A completed application which establishes eligibility for examination shall be valid for the three years of eligibility as described in 851-031-0010(3).

(5) Results of Examination:

(a) Results of the examination shall be reported to the applicant at the applicant's address of record on file.

(b) An applicant who passes the examination shall be granted a license to practice nursing in Oregon provided all other requirements for licensure have been met.

(c) An applicant who fails the licensing examination shall not be licensed or be authorized to practice nursing in Oregon.

(d) Reexamination following one or more failure(s):

(A) An applicant for reexamination shall file the required application and fee with the Board before being eligible to take the examination.

(B) The examination registration and fee shall be filed with the testing service under contract with the National Council of State Boards of Nursing (NCSBN) to develop and administer NCLEX.

(C) An applicant will be permitted to test no sooner than the 92nd day following the previous test date.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.040, ORS 678.050, ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 3-1978, f. & ef. 6-30-78; NER 15-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NER 4-1983, f. & ef. 12-1-83; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0156; NB 4-1997, f. 3-6-97, cert. ef. 5-1-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 14-1999, f. & cert. ef. 12-1-99; BN 7-2000, f. & cert. ef. 7-3-00; BN 5-2001(Temp), f. & cert. ef. 4-3-01 thru 9-25-01; BN 14-2001, f. & cert. ef. 10-16-01; BN 1-2003, f. & cert. ef. 3-6-03; BN 9-2003, f. & cert. ef. 10-2-03

851-031-0060

Renewal of License

(1) Eligibility for Renewal of License:

(a) An applicant for renewal of license shall meet the practice requirement as established in OAR 851-031-0006(3)(e).

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(b) An applicant for renewal of license who does not meet the practice requirement, and who is otherwise eligible for renewal, may satisfy the practice requirement through successful completion of a Board approved re-entry program with a limited license for the clinical portion of the program pursuant to OAR 851-031-0070 and 851-030-0080.

(2) Requirements and procedures for renewal of license:

(a) The licensee shall submit, prior to the expiration date as set forth in ORS 678.101, an application and fee as prescribed by the Board. An application for renewal not completed within two calendar years shall be considered void.

(b) The licensee shall answer all mandatory questions on the renewal form concerning employment and education.

(c) A renewal application and fee postmarked up to 60 days following expiration of the license, shall be considered delinquent and the applicant shall pay the delinquent fee.

(d) A renewal application and fee postmarked 61 or more days following expiration shall be considered a request for reactivation.

(3) Reactivation of license. An applicant for reactivation of license shall:

(a) Submit a completed application and fee, including the delinquent fee;

(b) Meet the nursing practice requirement as set forth in OAR 851-031-0006(3)(e); and

(c) Submit written verification of license from the most recent state of practice if licensed in another state since Oregon license has expired.

(4) Reinstatement. An applicant for reinstatement of license shall:

(a) Submit evidence that Board has issued an Order for reinstatement;

(b) Submit a completed application and fee, including the delinquent fee;

(c) Meet the nursing practice requirement as set forth in OAR 851-031-0006(3)(e); and

(d) Submit written verification of license in the most recent state of practice if licensed in another state since Oregon license has expired.

(5) If a licensee fails to make application for renewal on or before the deadline prescribed, the license shall be considered delinquent:

(a) In order to reinstate a delinquent license, a delinquent fee in addition to a renewal fee shall be required as prescribed by the Board.

(b) In addition, the delinquent licensee may be required to engage in a re-entry program as defined in OAR 851-031-0070 and 851-031-0080.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.021, ORS 678.040, ORS 678.101 & ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 3-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0186; NB 12-1997, f. & cert. ef. 9-29-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03; BN 9-2003, f. & cert. ef. 10-2-03

851-031-0070

Re-entry into Nursing

(1) Standards for Nurses Needing Re-entry

(a) An applicant for licensure by examination, endorsement, renewal, delinquent renewal, reactivation or reinstatement who does not meet the practice requirement as stated in OAR 851-031-0006(3)(e)(A)(B)(C) within the scope of practice for which licensure is sought, is required to complete a re-entry program approved by the Board.

(b) Process for completion of a Re-entry Program:

(A) The applicant submits a complete application for licensure;

(B) The Board determines that all requirements for licensure, other than the practice requirement, have been met;

(C) The applicant enrolls in a Board approved re-entry program or submits a plan and obtains approval for supervised clinical practice;

(D) The applicant obtains a limited license and completes the program or supervised clinical practice.

(E) The complete application for licensure remains valid for two years for purpose of the applicant's meeting the re-entry requirements.

(F) An application for re-entry and limited license remains valid for two years for completion of the re-entry program.

(G) An application for re-entry and limited license remains valid for one year for completion of an approved plan for supervised clinical experience.

(c) Except as otherwise provided in these rules, all re-entry requirements must be at the level of licensure being sought.

(d) If an applicant for RN licensure has completed a Board approved LPN re-entry program within the past two years, and the theory component was passed at the RN level, the applicant may meet all other requirements without repeating the 80 hour theory component.

(2) A Limited License for re-entry clinical experience shall be issued to a nurse who has:

(a) Submitted a current complete application and fee for re-entry and limited license; and

(b) Met all requirements for licensure except for completion of the re-entry program; and

(c) Obtained verification from an instructor that the applicant is enrolled in an approved re-entry program; or

(d) Submitted a plan and obtained approval from the Board for supervised clinical practice.

(3) The limited license issued under these rules is to be used only for the clinical practice component of the nursing re-entry program or approved plan for supervised clinical experience.

(a) The limited license expires six months from date of issue or upon completion of the re-entry program, whichever comes first.

(b) One extension of the limited license will be granted upon request and payment of fee, provided there is a current valid application for licensure on file.

(4) Required hours of supervised clinical practice.

(a) A nurse with at least 480 hours of nursing practice but fewer than 960 hours of nursing practice during the four year period preceding application for license, may submit a plan for additional hours of supervised nursing practice with a Board approved preceptor.

(A) The documented practice hours and additional hours of supervised practice shall total no less than 960 hours.

(B) In no case shall the supervised practice be less than 160 hours.

(C) The Board shall respond with written approval or disapproval of the plan for additional hours of supervised nursing practice within thirty days of its submission; and

(D) Approval of the plan for additional hours of supervised nursing practice is valid for one year from the date of the approval; and

(E) The supervised nursing practice must be completed within the year for which approval is valid.

(b) 160 hour Requirement. A nurse needs at least 160 hours of supervised clinical experience when:

(A) The nurse has fewer than 960 hours of nursing practice in the last five years but at least 960 hours of nursing practice in the ten years immediately preceding application for licensure; or

(B) The nurse has graduated from an approved nursing education program in the United States or an equivalent nursing education program in another country in the ten years immediately preceding application for licensure.

(c) 320 hour Requirement. A nurse needs at least 320 hours of supervised clinical experience when:

(A) The nurse has fewer than 960 hours of nursing practice in the last ten years but at least 960 hours of nursing practice in the 15 years immediately preceding application for licensure; or

(B) The nurse has graduated from an approved nursing education program in the United States or an equivalent nursing education program in another country in the 15 years immediately preceding application for licensure.

(d) A nurse with fewer than 960 hours of nursing practice within the 15 years preceding application, must complete a Board approved nursing program, and pass the licensing examination;

(e) Supervised clinical experience of the nursing re-entry program or approved plan for supervised clinical experience shall be in a student role and unpaid.

(5) Successful completion of re-entry requirements means the applicant has:

(a) Completed an approved plan for supervised clinical experience as described in 851-031-0070(4)(a)(A-E) within one year of the date of plan approval; or

(b) Enrolled in and completed a formal Board approved re-entry program within two years of the date of application for licensure; and

(c) Successfully completed the clinical hours in a formal Board approved re-entry program within the program according to the 851-031-0070(4)(a-g); and

(d) Satisfied a pharmacology requirement by successful completion of one of the following within the 12 months prior to enrollment or concurrent with enrollment in the formal re-entry program:

(i) Independent pharmacology course specifically approved for re-entry; or

(ii) Two semester credit basic nursing pharmacology course; or

(iii) Three (3) quarter credit basic nursing pharmacology course; or

(iv) At least 30 clock hours of continuing education in pharmacology.

(6) Failure to successfully complete.

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(a) Failure to successfully complete the formal re-entry program within two years means the applications and limited license are no longer valid. The applicant may reapply for licensure and for limited licensure and re-entry. Required clinical hours will be recalculated based on the later application(s).

(b) Failure to successfully complete the supervised clinical practice in an approved plan within one year means the applications and limited license are no longer valid. The applicant may reapply for licensure and for limited licensure and re-entry. Required clinical hours will be recalculated based on the later application(s). The applicant is required to submit a new plan for supervised clinical experience.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.113 & ORS 678.150

Hist.: NER 25, f. 9-22-75, ef. 10-10-75; NER 2-1980, f. & ef. 3-3-80; NER 5-1981, f. & ef. 11-24-81; NER 6, 1983, f. & ef. 12-9-83; NB 5-1987, f. & ef. 7-1-87; NB 1-1994, f. & cert. ef. 4-1-94; Renumbered from 851-020-0187; NB 12-1997, f. & cert. ef. 9-29-97; BN 10-1998, f. & cert. ef. 8-7-98; BN 1-2003, f. & cert. ef. 3-6-03; BN 9-2003, f. & cert. ef. 10-2-03

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Rules Repealed: 851-050-0003, 851-050-0121, 851-050-0139, 851-050-0141

Subject: 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 as of June 1, 2005, and modifies reentry requirements. The pharmacology requirement has been modified for initial and reactivation applicants.

These rules are being amended and renumbered to incorporate changes directed by the Board and to improve the sequencing of rule content.

Rules Coordinator: KC Cotton—(503) 731-4754

851-050-0000

Definitions as used in these rules

(1) "Addiction" means a combination of cognitive, physiological, and behavioral symptoms (such as compulsive craving and compulsive use of a controlled substance) in which the individual continues the use of a substance despite harm or adverse consequences. Neither physical dependence nor tolerance alone, as defined by these rules, constitutes addiction.

(2) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject.

(3) "Assessment" means a process of collecting information regarding a client's health status including, but not limited to, illness; response to illness; health risks of individuals, families and groups; resources; strengths and weaknesses, coping behaviors; and the environment. The skills employed during the assessment process include, but are not limited to: obtaining client histories, conducting physical examinations, ordering, interpreting and conducting a broad range of diagnostic procedures (e.g., laboratory studies, EKGs, and x-rays).

(4) "Client(s) or patient(s)" means a family, group or individual who has been assessed by and has a client/patient record established by the nurse practitioner.

(5) "Collaboration" means working with another health care provider to jointly provide client care.

(6) "Consultation" means discussion with another health care provider for the purpose of obtaining information or advice in order to provide client care.

(7) "Counseling" means a mutual exchange of information through which advice, recommendations, instruction, or education are provided to the client.

(8) "Diagnosis" means identification of actual or potential health problems or need for intervention, based on analysis of the data collected.

(9) "Direct Supervision" means the licensed/certified nurse practitioner or physician is physically present at the practice site, and able to intervene if necessary.

(10) "Discrete pharmacology course" means an advanced pharmacology course with pharmacologically specific requirements, objectives, and content, which is offered for credit or continuing education, and is not integrated into other coursework offered.

(11) "Dispense" or "dispensing" means the preparation and delivery of a prescription drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug.

(12) "Dispensing Authority" means to prepare and deliver substances to the client provided the authority is exercised in compliance with applicable federal and state laws.

(13) "Distance learning" means education provided by written correspondence or electronic medium for students not located at the site of the school.

(14) "Distribute" means the delivery of a drug other than by administering or dispensing such as prepackaged samples.

(15) "Evaluation" means the determination of the effectiveness of the intervention(s) on the client's health status.

(16) "Holistic Health Care" means an approach to diagnosis and treatment of clients which considers the status of the whole person (physical, emotional, social, spiritual, and environmental).

(17) "Initial certification" means the first certification granted by the Board. This may follow the applicant's completion of a nurse practitioner program or be granted to an applicant in Oregon who has been recognized by and has practiced as a nurse practitioner in another state or jurisdiction.

(18) "Intervention" means measures to promote health, to protect against disease, to treat illness in its earliest stages, and to manage acute and chronic conditions and/or illness. Interventions may include, but are not limited to: issuance of orders, direct nursing care, prescribing or administering medications or other therapies, and consultation or referral.

(19) "Management" means the provision and/or coordination of the care that the client receives related to physical and psycho-social health-illness status;

(20) "Nurse Practitioner" (NP) means a registered nurse who provides health care in an expanded specialty role. The title nurse practitioner and specialty category of practice shall not be used unless the individual is certified by the Board.

(21) "Nurse Practitioner Orders" means written or verbal instructions or directions by the nurse practitioner for interventions, diagnostic tests, evaluations, drugs, or treatment modalities. Nurse practitioners may establish protocols and standing orders.

(22) "Pain" means an unpleasant sensory and emotional experience related to adverse nociceptive or neuropathic stimuli.

(a) "Acute pain" is brief and responds to timely intervention, or subsides as healing takes place.

(b) "Chronic pain" is on going or frequently recurring, and may become unresponsive to intervention over time.

(c) "Intractable pain" means a pain state in which the cause cannot be removed or otherwise treated, and no relief or cure has been found after reasonable efforts.

(23) "Pharmacodynamics" means the study of the biochemical and physiologic effects of drugs and their mechanism of action.

(24) "Pharmacokinetics" means the action of drugs in the body over a period of time.

(25) "Pharmacotherapeutics" means the study of the uses of drugs in the treatment of disease.

(26) "Physical Dependence" means the physiologic adaptation to the presence of a controlled substance, characterized by withdrawal when its use is stopped abruptly.

(27) "Practice requirement" in an expanded specialty role means independent clinical practice in the specialty role of certification providing health care or other such activities which have a clinical focus and are at an advanced nursing level. These activities include, but are not limited to, teaching, consulting, supervision and research related to the specialty area of certification.

(28) "Prescribing authority" means the legal permission to determine which legend drugs and controlled substances shall be used by or administered to a client.

(29) "Provision of Care" means holistic health care which is continuous and comprehensive. Health care includes:

(a) Health promotion;

(b) Prevention of disease and disability;

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- (c) Health maintenance;
- (d) Rehabilitation;
- (e) Identification of health problems;
- (f) Management of health problems;
- (g) Referral.

(30) "Referral" means directing the client to other resources for the purpose of assessment or intervention.

(31) "Target audience" means a population for whom an educational program is designed.

(32) "Therapeutic device" means an instrument or an apparatus intended for use in diagnosis or treatment, and in the prevention of disease or maintenance or restoration of health.

(33) "Tolerance" means the physiologic adaptation to a controlled substance over time, resulting in the need to increase the dose to achieve the same effect, or in a reduction of response with repeated administration.

Stat. Auth.: ORS 678.375, 678.385, 678.380, 678.385 & 678.390
Stats. Implemented: ORS 678.375, ORS 678.385 & ORS 678.380
Hist.: NB 3-1987, f. & ef. 3-12-87; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 5-2000, f. & cert. ef. 4-24-00; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0001

Standards for Nurse Practitioner Programs

The Board's standards for nurse practitioner programs for initial applicants are as follows:

(1) The nurse practitioner program shall be a minimum of one academic year in length; however, programs completed before January 1, 1986 and post-Masters programs completed for the purpose of changing category of nurse practitioner certification may be less than one academic year in length if the program otherwise meets all requirements.

(2) Faculty who teach within the nurse practitioner program shall be educationally and clinically prepared in the same specialty area(s) as the theory and clinical areas they teach and shall include advanced practice nurses.

(3) The curriculum content shall contain theory and clinical experience in the nurse practitioner specialty role/category specified in OAR 851-050-0005(6) for which application is being made, preparing the graduate to meet all competencies within the scope including physical assessment, pharmacology, pathophysiology, differential diagnosis and clinical management.

(4) The number of contact hours of clinical experience shall be equal to or greater than the number of contact hours of nurse practitioner theory.

(5) Programs that provide for advanced placement of students shall provide documentation that such students meet the equivalent of the program's current curriculum and standards.

(6) Written program materials shall accurately reflect the mission, philosophy, purposes, and objectives of the program.

(7) Programs shall demonstrate appropriate course sequencing, including completion of all precicensure nursing curriculum requirements before advancement into nurse practitioner clinical coursework.

(8) Preceptors shall meet clinical and licensure qualifications for the state in which they practice.

(9) Distance learning programs shall meet all standards of OAR 851-050-0001.

(10) Coursework taken within the nurse practitioner program must be taken at the graduate level, if completed after January 1, 1986.

(11) Nurse practitioner programs outside of the United States must meet all standards of OAR 851-050-0001. Such programs shall be determined by Board credentials review to be equivalent to graduate nurse practitioner programs offered in the United States which prepare the nurse practitioner for practice within the advanced nursing specialty scope. Nationally recognized accreditation standards may be applied by the Board at the Board's discretion, in accordance with the Oregon Office of Degree Authorization regulations.

Stat. Auth.: ORS 678.380
Stats. Implemented: ORS 678.380
Hist.: NB 3-1990, f. & cert. ef. 4-2-90; NB 8-1993, f. & cert. ef. 8-23-93; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0002

Application for Initial Certification as a Nurse Practitioner

Application For Initial Certification as a Nurse Practitioner

(1) An applicant for initial certification in Oregon as a nurse practitioner, shall:

(a) Hold a current unencumbered registered nurse license in the State of Oregon, and

(b) Meet the following educational requirements:

(A) A Master's Degree in Nursing or a Doctorate in Nursing from a CCNE (Commission on Collegiate Nursing Education) or NLNAC (National League for Nursing Accreditation Commission) accredited graduate nursing program; and

(B) Satisfactory completion of a Nurse Practitioner Program that meets OAR 851-050-0001 requirements and is specific to the expanded specialty role/category for which application is made.

(C) Nurse practitioner programs completed after January 1, 2005 shall be within a CCNE or NLNAC accredited graduate level program at the Masters or post-masters graduate level; or an equivalent non-U.S. graduate program as specified in OAR 851-050-0001(11); and

(c) Meet the practice requirement in OAR 851-050-0004.

(2) An applicant for initial certification in Oregon who has been certified in another state as an advanced practice nurse, and who meets all other requirements for certification, may be certified in Oregon if their program meets the standards of OAR 851-050-0001 and was completed within the following time frames:

(a) Prior to January 1, 1981, completion of a nursing educational program leading to licensure as a registered nurse and subsequent completion of a nurse practitioner program.

(b) As of January 1, 1981, a nurse obtaining Oregon certification shall have a minimum of a baccalaureate degree with a major in nursing and, in addition, satisfactory completion of an educational program in the nurse practitioner specialty area. Specialty preparation obtained within a baccalaureate nursing program does not meet this requirement.

(c) As of January 1, 1986, the minimum educational requirement for Oregon shall be a Masters degree in Nursing with satisfactory completion of an educational program in the nurse practitioner specialty area.

(3) The graduate degree requirement may be met prior to, concurrent with, or after completion of the nurse practitioner program.

(4) The following documents shall be submitted as part of the initial application process:

(a) An official transcript of the graduate program, showing degree granted and received directly from the registrar of the university or college.

(b) An official transcript, or other evidence of satisfactory completion of the nurse practitioner program showing all courses, grades, quality points, grade point average, degree granted, date of graduation, appropriate registrar's signature or program director's signature received by the Board directly from the program or registrar.

(c) Evidence that the nurse practitioner program meets the Board's standards as described in OAR 851-050-0001.

(5) An applicant for initial certification in Oregon as a nurse practitioner shall meet all requirements for prescribing authority described in OAR 851-050-0125 and obtain prescribing authority under the provisions of OAR 851-050-0120.

(6) Revocation, suspension, or any other encumbrance of a registered nurse license held in another state, territory of the United States, or any foreign jurisdiction may be grounds for denial of certification in Oregon.

(7) The applicant shall submit the required fees with the application. Fees are not refundable. An application which remains incomplete after one calendar year shall be considered void.

Stat. Auth.: ORS 678.375, ORS 678.380 & ORS 678.390
Stats. Implemented: ORS 678.380 & ORS 390
Hist.: NER 34, f. & ef. 10-1-76; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0300; NB 12-1990, f. & cert. ef. 12-28-90; NB 3-1993(Temp), f. & cert. ef. 2-26-93; NB 8-1993, f. & cert. ef. 8-23-93; NB 7-1996, f. & cert. ef. 10-29-96; Administrative correction 3-23-98; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0004

Nurse Practitioner Practice Requirements

(1) The practice requirement as a nurse practitioner must be met through practice which meets the definition in OAR 851-050-0000(27) in the following manner:

(a) Completion of a nurse practitioner program within the past one year; or

(b) Completion of a nurse practitioner program within the past two years and a minimum of 192 hours of practice as a nurse practitioner; or

(c) 960 hours of nurse practitioner practice within the five years preceding certification application or renewal; or

(d) Completion of a Board supervised advanced practice re-entry program which meets the requirements of 851-050-0006 within two years immediately preceding issuance of certification under a limited or registered nurse license and a limited nurse practitioner certificate.

(2) As of July 1, 2005, prior practice as a registered nurse requirements for nurse practitioner applicants will be as follows:

(a) All initial applicants must provide documentation of a minimum of 384 hours of registered nurse practice which includes assessment and

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management of clients and is not completed as an academic clinical requirement.

(b) The applicant shall verify completion of the required hours before issuance of the nurse practitioner certificate.

(c) This requirement shall be waived for individuals practicing in the specialty area as a licensed certified nurse practitioner in another state for more than two years.

(3) All practice hours claimed are subject to audit and disciplinary action for falsification.

(4) A nurse practitioner student may practice in Oregon provided he or she meets the following requirements:

(a) A current, unencumbered registered nurse license in Oregon;

(b) Enrollment in a nurse practitioner program accredited by a state approved national accrediting body;

(c) Submission of a written, signed agreement between the student and a nurse practitioner or physician who has agreed to serve as a preceptor;

(d) Identification of the faculty advisor accountable for general supervision from the nurse practitioner program; and

(e) Proof of program approval by the Office of Degree Authorization or Oregon Department of Education.

Stat. Auth.: ORS 678.375, ORS 678.380 & ORS 678.390

Stats. Implemented: ORS 678.380 & ORS 390

Hist.: BN 10-2003, f. & cert. ef. 10-2-03

851-050-0005

Nurse Practitioner Scope of Practice

(1) Purpose of Scope of Practice:

(a) To establish acceptable levels of safe practice for the nurse practitioner.

(b) To serve as a guide for the Board to evaluate nurse practitioner practice.

(c) To distinguish the scope of practice of the nurse practitioner from that of the registered nurse.

(2) The role of the nurse practitioner will continue to expand in response to societal demand and new knowledge gained through research, education, and experience.

(3) The nurse practitioner provides holistic health care to individuals, families, and groups across the life span in a variety of settings, including hospitals, long term care facilities and community-based settings.

(4) Within his or her specialty, the nurse practitioner is responsible for managing health problems encountered by the client and is accountable for health outcomes. This process includes:

(a) Assessment;

(b) Diagnosis;

(c) Development of a plan;

(d) Intervention;

(e) Evaluation.

(5) The nurse practitioner is independently responsible and accountable for the continuous and comprehensive management of a broad range of health care, which may include:

(a) Promotion and maintenance of health;

(b) Prevention of illness and disability;

(c) Assessment of clients, synthesis and analysis of data and application of nursing principles and therapeutic modalities;

(d) Management of health care during acute and chronic phases of illness;

(e) Admission of his/her clients to hospitals and/or health services including but not limited to home health, hospice, long term care and drug and alcohol treatment;

(f) Counseling;

(g) Consultation and/or collaboration with other health care providers and community resources;

(h) Referral to other health care providers and community resources;

(i) Management and coordination of care;

(j) Use of research skills;

(k) Diagnosis of health/illness status;

(l) Prescription and/or administration of therapeutic devices and measures, including legend drugs and controlled substances as provided in OAR 851-050-0131 and dispensing drugs as provided in OAR 851-050-0133, 0134 and 0145, consistent with the definition of the practitioner's specialty category and scope of practice.

(6) The nurse practitioner scope of practice includes teaching the theory and practice of advanced practice nursing.

(7) The nurse practitioner is responsible for recognizing limits of knowledge and experience, and for resolving situations beyond his/her

nurse practitioner expertise by consulting with or referring clients to other health care providers.

(8) The nurse practitioner will only provide health care services within the nurse practitioner's scope of practice for which he/she is educationally prepared and for which competency has been established and maintained. Educational preparation includes academic coursework, workshops or seminars, provided both theory and clinical experience are included.

(9) The scope of practice as previously defined is incorporated into the following specialty categories and further delineates the population served:

(a) Acute Care Nurse Practitioner (ACNP) – The Acute Care Nurse Practitioner independently provides health care to persons who are acutely or critically ill;

(b) Adult Nurse Practitioner (ANP) – The Adult Nurse Practitioner independently provides health care to adolescents and adults;

(c) Nurse Midwife Nurse Practitioner (NMNP) – The Nurse Midwife Nurse Practitioner independently provides health care to women, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women. The scope of practice includes treating the male partners of their female clients for sexually transmitted diseases, and reproductive health. Counseling related to sexuality, relationship, and reproductive issues is included in this scope.

(d) College Health Nurse Practitioner (CHNP) – The College Health Nurse Practitioner independently provides health care to essentially normal clients in the college setting. As of March 12, 1987, no additional College Health Nurse Practitioners shall be initially certified.

(e) Family Nurse Practitioner (FNP) – The Family Nurse Practitioner independently provides health care to families and to persons across the lifespan;

(f) Geriatric Nurse Practitioner (GNP) – The Geriatric Nurse Practitioner independently provides health care to older adults;

(g) Neonatal Nurse Practitioner (NNP) – The Neonatal Nurse Practitioner independently provides health care to neonates and infants;

(h) Pediatric Nurse Practitioner (PNP) – The Pediatric Nurse Practitioner independently provides health care to persons newborn to young adulthood;

(i) Psychiatric/Mental Health Nurse Practitioner (PMHNP) – The Psychiatric/Mental Health Nurse Practitioner independently provides health care to clients with mental and emotional needs and/or disorders;

(j) Women's Health Care Nurse Practitioner (WHCNP) – The Women's Health Care Nurse Practitioner independently provides health care to adolescent and adult females. The scope of practice includes treating the male partners of their female clients for sexually transmitted diseases and reproductive health. Counseling related to sexuality, relationship, and reproductive health is included in this scope.

Stat. Auth.: ORS 678.380 & 678.395

Stats. Implemented: ORS 678.380

Hist.: NB 3-1987, f. & ef. 3-12-87; NB 3-1990, f. & cert. ef. 4-2-90; NB 1-1992, f. & cert. ef. 2-13-92; NB 7-1992, f. & cert. ef. 7-15-92; NB 4-1994, f. & cert. ef. 8-2-94; NB 9-1994, f. & cert. ef. 12-7-94; NB 2-1995, f. & cert. ef. 4-12-95; NB 7-1996, f. & cert. ef. 10-29-96; NB 6-1997, f. & cert. ef. 5-13-97; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0006

Re-Entry Requirements

(1) If the practice requirement in OAR 851-050-0004 has not been met, applicants should:

(a) Obtain a limited license as a registered nurse in the State of Oregon; or hold a current, unencumbered Oregon registered nurse license.

(b) Submit an application for a limited license which meets educational requirements of OAR 851-050-0002(1) or an application for reactivation of previous certification as a nurse practitioner in Oregon. An application which is not completed becomes void after one year from date of receipt.

(c) Submit a plan of study for approval which specifies:

(A) Clinical sites, patient population, objectives, competency evaluation, and supervisory relationship of preceptor;

(B) Number of practice hours required and how their completion shall be met.

(d) Submit names and qualifications for approval of preceptors which are Oregon certified nurse practitioners and/or Oregon licensed MD/DO physicians in the same specialty area as the nurse practitioner certification specialty.

(e) Determine practice hours in consultation with the Board to ensure one of the following options have been met:

(A) 300 hours of supervised practice if the applicant has practiced less than 960 hours in the last five years, or has completed a nurse practitioner program within the last two years and has not worked a minimum of 192

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hours. Advanced practice hours completed during these time frames may be applied to reduce the total number of supervised clinical practice hours required, except that in no case shall the precepted practice be less than 150 hours.

(B) 600 hours of supervised practice if the applicant has not practiced 960 hours in the last five years, but has practiced at least 960 hours in the last six years. Advanced practice hours completed during the six year time frame may be applied to reduce the total number of supervised clinical practice hours required except that in no case shall the precepted practice be less than 300 hours.

(C) 1000 hours of supervised practice if the applicant has not practiced at least 960 hours in the last ten years. Advanced practice hours completed during the ten year time frame may be applied to reduce the total number of supervised clinical practice hours required except that in no case shall the precepted practice be less than 500 hours.

(D) If the applicant has not practiced at least 960 hours within the last ten years, the re-entry requirement shall be met through successful completion of a nurse practitioner post masters certificate program which meets the requirements of OAR 851-050-0001, or of a comprehensive series of nurse practitioner courses within a CCNE or NLNAC accredited nurse practitioner program in the specialty sought. The plan of study shall be submitted in advance for Board approval before enrollment. The plan of study shall cover the entire scope of the advanced specialty area under which the applicant was previously certified/licensed, and must include both clinical and didactic hours. The program of study shall include advanced pharmacology which meets the requirements of OAR 851-050-0125, pathophysiology, physical assessment, differential diagnosis, and clinical management. The institution shall provide documentation which demonstrates previous credits, courses, or competency testing applied to meet final completion. Proof of completion of this plan of study shall be provided to the Board in the form of official transcripts documenting completion of all required coursework.

(2) In addition to meeting the re-entry practice requirement, all participants will submit evidence of 100 hours of continuing education completed within the last two years by the completion of their re-entry precepted practice. The continuing education hours must include an advanced pharmacology course meeting the criteria in OAR 851-050-0125, physical assessment, treatment modalities, client management and laboratory/diagnostic studies with content related to the NP scope of practice being sought. The continuing education may be obtained in the following ways:

- (a) Independent learning activities e.g. reading professional journals;
- (b) Unstructured learning activities, e.g. professional meetings and clinical rounds;
- (c) Structured learning activities, e.g. seminars and workshops.

(3) The re-entry participant shall practice under a limited certificate, and successfully complete clinical practice directly supervised by the approved preceptor in the same area of practice. Application for a limited certificate shall be made prior to the beginning of the supervised clinical practice. The limited certificate shall be valid for one year, with one renewal of an additional one year permitted. The supervising practitioner shall submit a final evaluation to the Board to verify that the applicant's knowledge and skills are at a safe and acceptable level and verify the hours of supervised practice. An application for a limited license for re-entry without issuance after one calendar year shall be considered void.

(4) Supervised practice hours shall be without compensation.

(5) Upon successful completion of the supervised practice hours, the nurse practitioner certificate will be issued with an expiration date that coincides with the applicant's registered nurse license.

(6) Re-entry hours must be completed within a two year time frame from the issuance of the limited license.

(7) Successful completion of Board approved advanced practice re-entry will satisfy requirements for the registered nurse re-entry.

(8) Prescriptive authority will be issued only upon completion of precepted hours to applicants meeting all criteria in OAR 851-050-0120. Written documents during precepted practice shall be signed with the nurse practitioner specialty title, followed with "Re-entry" and the preceptors co-signature.

(9) The applicant shall submit all fees required by the Board with the application. The fees are not refundable.

Stat. Auth.: ORS 678.375, 678.380 & 678.390
Stats. Implemented: ORS 678.380 & 390
Hist.: BN 10-2003, f. & cert. ef. 10-2-03

851-050-0010

Special Provisions

State of Oregon:

(1) Any nurse practitioner who has been certified by the Oregon State Board of Nursing is eligible for re-certification, renewal, re-entry, or reactivation in that same category.

(2) Any nurse practitioner active in practice, whether with direct or indirect patient care, shall report their current practice address or addresses. Each change in practice setting and mailing address must be submitted to the Board no later than 30 days after the change.

Stat. Auth.: ORS 678.375 & ORS 678.380
Stats. Implemented: ORS 678.380

Hist.: NB 3-1987, f. & ef. 3-12-87; NER 34, f. & ef. 10-1-76; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0320; NB 12-1990, f. & cert. ef. 12-28-90; NB 11-1992, f. & cert. ef. 12-15-92; NB 3-1993(Temp), f. & cert. ef. 2-26-93; NB 8-1993, f. & cert. ef. 8-23-93; NB 2-1995, f. & cert. ef. 4-12-95; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0120

Application Requirements for Initial Prescriptive Authority In Oregon

(1) Current, unencumbered nurse practitioner certificate in the State of Oregon.

(2) Evidence of satisfactory completion of 40 contact hours of pharmacology as defined in OAR 851-050-0125 including content related to the specialty scope of practice, within two years prior to the application date. An exception may be made to the requirement that the 40 contact hours of pharmacology be within two years, provided the applicant has demonstrated a working knowledge of pharmacotherapeutics through prior practice. As of June 1, 2005 this requirement will be 45 contact hours.

(3) Submit application and fees required by the Board. Fees are non-refundable. An application not completed after one calendar year will be considered void.

(4) Applicants for initial certification as a nurse practitioner shall meet all requirements for prescriptive authority.

(5) Nurse practitioners who were certified in Oregon prior to July 1, 1997 and who did not have prescriptive authority as of that date are not required to obtain prescriptive authority.

(6) Initial applicants not meeting Oregon's pharmacology requirements shall complete a pharmacology course from a list approved by the Board, equal to a minimum of 40 contact hours.

(7) A nurse practitioner who holds current prescriptive authority in another state or U.S. jurisdiction need not meet the requirement of OAR 851-050-0120(2) for initial prescriptive authority in Oregon, provided there is evidence of the following:

(a) A minimum of 200 hours of practice in an expanded specialty role within the preceding two years;

(b) A minimum of thirty (30) contact hours of pharmacology equivalent to the requirements of OAR 850-050-0125(2).

(8) If the nurse practitioner has not been prescribing drugs for more than two years, the nurse practitioner shall provide evidence of satisfactory completion of a discrete pharmacology course from a list approved by the Board within two years prior to the application for prescriptive authority.

Stat. Auth.: ORS 678.375 & ORS 678.390

Stats. Implemented: ORS 678.375 & ORS 390

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0125

Pharmacology Course Requirements

(1) 40 contact hours may be obtained as part of a discrete offering within the formal advanced educational program or through structured continuing education programs from a list approved by the Board.

(2) The pharmacology course shall be approved by the Board according to the following standards:

(a) The course content shall include:

(A) Applicable federal/state laws;

(B) Prescription writing;

(C) Pharmacokinetic, pharmacodynamic and pharmacotherapeutic principles;

(D) Use of prescriptive pharmacological agents in the prevention of illness, restoration and maintenance of health;

(E) Informational resources; and

(F) Clinical application related to specific scope of practice.

(b) Specific tests are used to determine successful completion of the course.

(c) The target audience includes advanced practice nurses.

(d) Learner objectives include the specialty scope of advanced practice for which the applicant seeks certification.

(e) Written verification of participation and successful completion of the course is provided by the course sponsor.

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Stat. Auth.: ORS 678.375 & ORS 678.390
Stats. Implemented: ORS 678.375 & ORS 390
Hist.: NB 7-1987, f. & ef. 10-5-87; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0130

Requirements for Prescription Writing

(1) A written prescription shall include the date, printed name, legal signature, specialty category, business address and telephone number of the prescribing nurse practitioner in addition to the required patient and drug information.

(2) Prescriptions may be written for over-the-counter drugs, durable medical equipment (DME) and devices.

(3) Prescriptions written by nurse practitioners shall be signed by the prescriber with the abbreviated specialty title of the nurse practitioner as per OAR 851-050-0005(9).

(4) Drugs in the formulary may be prescribed, administered, or distributed in combination.

(5) The nurse practitioner shall comply with all applicable laws and rules in prescribing, administering, and distributing drugs, including compliance with the labeling requirements of ORS Chapter 689.

(6) A nurse practitioner shall only prescribe controlled substances if the nurse practitioner has a valid and current DEA registration number appropriate to the classification level of the controlled substance.

Stat. Auth.: ORS 678.375 & ORS 678.390
Stats. Implemented: ORS 678.375 & ORS 390
Hist.: NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 7-1996, f. & cert. ef. 10-29-96; BN 5-2000, f. & cert. ef. 4-24-00 BN 10-2003, f. & cert. ef. 10-2-03

851-050-0131

Formulary for Nurse Practitioners with Prescriptive Authority

(1) The following definitions apply for the purpose of these rules:

(a) "Appliance or device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

(b) "Formulary" means a specific list of drugs determined by the Board. The formulary for nurse practitioners with prescriptive authority shall be all the drugs in the Drug Facts and Comparisons dated August 2003 with the exception of certain drugs and drug groups which are listed below.

(c) "Board" means the Oregon State Board of Nursing.

(2) The Board as authorized by ORS 678.385(1993), shall determine the drugs which nurse practitioners may prescribe, shall periodically revise the formulary by rulemaking hearing at each regular Board meeting and shall transmit the list of those drugs which are exceptions to the formulary, and which nurse practitioners may not prescribe, to nurse practitioners with prescriptive authority and other interested parties.

(3) The formulary is constructed based on the following premises:

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Nurse practitioner prescribing is limited by the nurse practitioner's scope of practice and knowledge base within that scope of practice;

(c) Nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005;

(d) Nurse practitioners may prescribe drugs for conditions the nurse practitioner does not routinely treat within the scope of their practice provided there is ongoing consultation/ collaboration with another health care provider who has the authority and experience to prescribe the drug(s);

(e) Nurse practitioners shall be held strictly accountable for their prescribing decisions;

(f) All drugs on the formulary shall have Food and Drug Administration (FDA) approval.

(4) Nurse practitioners with prescriptive authority are authorized to prescribe:

(a) All over the counter drugs;

(b) Appliances and devices.

(5) Nurse practitioners are authorized to prescribe the following drugs as listed in Drug Facts and Comparisons dated August 2003:

(a) Nutrients and Nutritional Agents – all drugs;

(b) Hematological Agents – all drugs; except Drotrecogin Alfa (Xigris) and Treprostinil Sodium (Romodulin)

(c) Endocrine and Metabolic Agents – all drugs except:

(A) I 131;

(B) Gallium Nitrate; and

(C) Mifepristone (Mifeprex).

(d) Cardiovasculars – all drugs except:

(A) Cardioplegic Solution;

(B) Fenoldopam Mesylate (Corlopam);

(C) Dofetilide (Tikosyn); and

(D) Bosentan (Tracleer).

(e) Renal and Genitourinary Agents – all drugs;

(f) Respiratory Agents – all drugs;

(g) Central Nervous System Agents:

(A) Class II Controlled Substances – Only the following drugs:

(i) Tincture of opium;

(ii) Codeine;

(iii) Hydromorphone;

(iv) Morphine;

(v) Oxycodone, Oxymorphone;

(vi) Topical Cocaine Extracts and Compounds;

(vii) Fentanyl;

(viii) Meperidine;

(ix) Amphetamines;

(x) Methylphenidate;

(xi) Pentobarbital;

(xii) Secobarbital; and

(xiii) Methadone Hydrochloride (in accordance with OAR 851-045-0015(2)(n) and 851-050-0170).

(B) General Anesthetic Agents – no drugs which are general anesthetic barbiturates, volatile liquids or gases, with the exception of nitrous oxide; and

(C) Chymopapain is excluded.

(h) Gastrointestinal Agents – all drugs except: Monoctanoin;

(i) Anti-infectives, Systemic – all drugs;

(j) Biological and Immunologic Agents – all drugs except Basiliximab (Simulect);

(k) Dermatological Agents – all drugs except Psoralens;

(l) Ophthalmic and Otic Agents – all drugs except:

(A) Punctal plugs;

(B) Collagen Implants;

(C) Indocyanine Green;

(D) Hydroxypropyl (Methyl) Cellulose;

(E) Polydimethylsiloxane;

(F) Fomivirsen Sodium (Vitrvavene);

(G) Verteporfin;

(H) Levobetaxolol HCL (Betaxon);

(I) Travoprost (Travatan);

(J) Bimatoprost (Lumigan); and

(K) Unoprostone Isopropyl (Rescula).

(m) Antineoplastic Agents – all drugs except:

(A) NCI Investigational Agents;

(B) Samarium Sm53;

(C) Denileukin Diftitox (Ontak);

(D) BCG, Intravesical (Pacis);

(A) Arsenic Trioxide (Trisenox).

(B) Ibritumomab Tiuxetan (Zevalin)

(n) Diagnostic Aids:

(A) All drugs except Arbutamine (GenESA);

(B) Thyrotropin Alfa (Thyrogen);

(C) Miscellaneous Radiopaque agents – no drugs from this category except:

(i) Iopamidol;

(ii) Iohexol; and

(iii) Ioxilan (Oxilan).

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 678.375 & ORS 678.385

Stats. Implemented: ORS 678.385

Hist.: NB 11-1993(Temp), f. 10-26-93, cert. ef. 11-4-93; NB 2-1994, f. & cert. ef. 4-15-94; NB 7-1994, f. & cert. ef. 9-28-94; NB 3-1995, f. & cert. ef. 4-12-95; NB 6-1995(Temp), f. & cert. ef. 6-15-95; NB 8-1995, f. & cert. ef. 6-29-95; NB 11-1995, f. & cert. ef. 10-9-95; NB 1-1996, f. & cert. ef. 2-29-96; NB 3-1996, f. & cert. ef. 6-11-96; NB 8-1996, f. & cert. ef. 10-30-96; NB 10-1996, f. & cert. ef. 12-2-96; NB 5-1997, f. & cert. ef. 3-6-97; NB 7-1997, f. & cert. ef. 5-13-97; NB 8-1997, f. & cert. ef. 7-1-97; NB 13-1997, f. & cert. ef. 9-29-97; NB 14-1997, f. & cert. ef. 12-11-97; BN 4-1998, f. & cert. ef. 3-13-98; BN 5-1998, f. & cert. ef. 5-11-98; BN 8-1998, f. & cert. ef. 7-16-98; BN 12-1998, f. & cert. ef. 9-22-98; BN 13-1998, f. & cert. ef. 12-1-98; BN 1-1999, f. & cert. ef. 3-4-99; BN 3-1999, f. & cert. ef. 5-4-99; BN 5-1999, f. & cert. ef. 7-1-99; BN 9-1999, f. & cert. ef. 10-20-99; BN 13-1999, f. & cert. ef. 12-1-99; BN 3-2000, f. & cert. ef. 2-25-00; BN 5-2000, f. & cert. ef. 4-24-00; BN 8-2000, f. & cert. ef. 7-3-00; BN 9-2000, f. & cert. ef. 9-18-00; BN 10-2000, f. & cert. ef. 12-15-00; BN 2-2001, f. & cert. ef. 2-21-01; BN 6-2001, f. & cert. ef. 4-24-01; BN 9-2001, f. & cert. ef. 7-9-01; BN 13-2001, f. & cert. ef. 10-16-01; BN 4-2002, f. & cert. ef. 3-5-02; BN 11-2002, f. & cert. ef. 4-25-02; BN 14-2002, f. & cert. ef. 7-17-02; BN 19-2002, f. & cert. ef. 10-18-02; BN 21-2002, f. & cert. ef. 12-17-02; BN 2-2003, f. & cert. ef. 3-6-03; BN 4-2003, f. & cert. ef. 4-23-03; BN 8-2003, f. & cert. ef. 7-7-03; BN 10-2003, f. & cert. ef. 10-2-03

ADMINISTRATIVE RULES

851-050-0133

Purpose and Scope

(1) A nurse practitioner authorized to write prescriptions under ORS 678.390 and employed by a college or university student health center registered by the Oregon Board of Pharmacy under ORS 689.305 shall be authorized to dispense drugs to the practitioner's patients, if the patients are students of the college or university.

(2) Students shall be given the choice of taking their prescription to a community pharmacy located off campus.

(3) Drugs dispensed shall be prepackaged by a pharmacy registered by the Board or repackaged by a manufacturer registered by the Board.

(4) Such dispensing shall be limited to those agents in the following therapeutic classes for which the nurse practitioner is authorized to write prescriptions under ORS 678.390. Dispensing from asterisked therapeutic classes shall be limited to a seven day supply.

- (a) Oral Contraceptives;
- (b) Contraceptive Devices;
- (c) Anti-infectives;
- (d) Anti-inflammatories;
- (e) Decongestants;
- (f) Antihistamines*;
- (g) Analgesics;
- (h) Antidepressants*;
- (i) Antitussives/ Expectorants;
- (j) Gastrointestinals*;
- (k) Inhaled metered dose bronchodilators and anti-inflammatories;

and

- (l) Prenatal Vitamins.

(5) The nurse practitioner and the consultant pharmacist shall together decide which individual drugs to stock from the listed therapeutic classes.

(6) The consultant pharmacist shall conduct, on an inspection form provided by the Oregon Board of Pharmacy, an annual inspection of the student health center by February 1st. The completed form shall be filed in the student health center, be available to the Oregon Board of Pharmacy for inspection, and be kept on file for three years.

Stat. Auth.: ORS 689.605

Stats. Implemented: ORS 689.605

Hist.: NB 3-1994, f. & cert. ef. 5-23-94; NB 7-1996, f. & cert. ef. 10-29-96; BN 5-2000, f. & cert. ef. 4-24-00; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0134

Drug Delivery and Control in the College Health Setting

(1) This rule is only applicable to those colleges or university student health centers registered by the Board of Pharmacy under ORS 689.305.

(2) Policies and Procedures. A pharmacist licensed by the Board of Pharmacy shall establish procedures for the following:

- (a) Drug dispensing, storage, security and accountability;
- (b) Maintenance of all drug records required by federal and state law;
- (c) Procedures for procurement of drugs.
- (3) Dispensing:
- (a) Drugs may be dispensed to the student by the nurse practitioner.
- (b) Drugs shall be prepackaged by a pharmacy or manufacturer and provide on the label:

(A) The name and strength of the drug. If the drug does not have a brand name, then the generic name of the drug and the drug manufacturer must be on the label.

- (B) The quantity of the drug;
- (C) Cautionary statements, if any, required by law;
- (D) The name, address, and phone number of the student health center; and

(E) The manufacturer's expiration date, or an earlier date if preferable, after which the patient should not use the drug.

(c) The nurse practitioner shall label prescription drugs with the following information:

- (A) Name of the patient;
- (B) Name of the prescriber;
- (C) Date of dispensing; and
- (D) Directions for use.

(d) The nurse practitioner shall personally dispense drugs to the patient.

(e) Drugs shall be dispensed in containers complying with the federal Poison Prevention Packaging Act, unless the patient requests a non-complying container.

(f) The pharmacist and the nurse practitioner shall provide a means for patients to receive verbal and written information on drugs dispensed to the patient. The written drug information shall include:

- (A) Drug name and class;
- (B) Proper use and storage;
- (C) Common side effects;
- (D) Precautions and contraindications; and
- (E) Significant drug interactions.
- (4) Drug Utilization Review

(a) "Drug utilization review" means the collaborative review by the nurse practitioner and the pharmacist of the patient records, including but not limited to drugs prescribed and dispensed, dosage, duration of therapy, allergies, interactions, and compliance.

(b) The nurse practitioner and the pharmacist shall perform regular drug utilization reviews at least quarterly, sign the documentation of the review, and maintain it in the student health center for a minimum of three years. All records and information that are the subject of a drug utilization review are confidential and shall not be disclosed, except as specifically authorized or required by law.

(5) Drug security, storage and disposal:

(a) In the absence of the nurse practitioner or the pharmacist, drugs shall be kept in a locked cabinet or drug room which is sufficiently secure to deny access to unauthorized persons. Only the nurse practitioner and the pharmacist shall have a key to the drug cabinet or drug room. In their absence, the drug cabinet or drug room shall be kept locked.

(b) All drugs shall be stored in areas which will assure proper sanitation, temperature, light, ventilation, and moisture control as required in official compendium, such as the United States Pharmacopeia or National Formulary.

(c) Drugs which are outdated, damaged, deteriorated, misbranded, or adulterated shall be physically separated from other drugs until they are destroyed or returned to their supplier.

(d) Controlled substances, which are expired, deteriorated, or unwanted, shall be disposed of in conformance with current State and Federal Regulations including but not limited to 21 CFR 1307.21 and OAR 855-080-0105.

(6) Drug records:

(a) A drug dispensing record shall be maintained separately from the patient record and kept for a minimum of three years. The dispensing record shall show, at a minimum, the following:

- (A) Name of patient;
- (B) Brand name of drug, or generic name and manufacturer or distributor;
- (C) Date of dispensing; and
- (D) Initials of nurse practitioner.

(b) All records of receipt and dispersal of drugs shall be kept for a minimum of three years.

(c) All records required by these rules or by federal or state law shall be readily retrievable and available for inspection by the Board.

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

Stat. Auth.: ORS 689.605

Stats. Implemented: ORS 689.605

Hist.: NB 3-1994, f. & cert. ef. 5-23-94; NB 7-1996, f. & cert. ef. 10-29-96; BN 5-2000, f. & cert. ef. 4-24-00; BN 3-2001, f. & cert. ef. 2-21-01; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0138

Renewal and Reactivation of Nurse Practitioner Certification

(1) Renewal of certification shall be on the same schedule as the renewal system of the registered nurse license. The requirements for re-certification are:

(a) Current unencumbered license as a registered nurse in the state of Oregon.

(b) Submission of all required application fees. Fees are not refundable. An application that has not been completed during the current biennial renewal cycle shall be considered void.

(c) Completion of 100 clock hours of continuing education related to advanced practice nursing and to the area(s) of specialty certification.

(A) Continuing education must be obtained in the following ways:

- (i) Independent learning activities e.g. reading professional journals;
 - (ii) Unstructured learning activities, e.g. professional meetings and clinical rounds;
 - (iii) Structured learning activities, e.g. seminars and workshops.
- (B) Continuing education hours shall be documented on the renewal form.

(C) An applicant for renewal who has graduated from the nurse practitioner program less than two years prior to his/her first renewal will not be required to document the full 100 clock hours of continuing education.

ADMINISTRATIVE RULES

The applicant's continuing education will be prorated on a monthly basis based on the length of time between graduation and the date of the first renewal.

(D) Nurse practitioners shall maintain accurate documentation and records of any claimed continuing education and practice hours for no less than five years from the date of submission to the Board.

(2) Verification of practice hours which meet the practice requirement in OAR 851-050-0004.

(3) Renewal may be denied if the applicant does not meet the practice requirement or the continuing education requirement for renewal.

(4) Applications for renewal up to 60 days past the expiration date shall meet all requirements for renewal and pay a delinquent fee. Applications postmarked after 61 days from the expiration date will require reactivation. To reactivate a nurse practitioner certificate from expired or inactive status, a nurse practitioner must:

(a) Meet all requirements for licensure and certification;

(b) Meet all requirements for prescriptive authority, if previously held in Oregon;

(c) Pay the non-refundable fee established by the Board; and

(d) Provide evidence of continuing education hours that meet the requirements in OAR 851-050-0138(1).

(5) Any individual whose nurse practitioner certification is expired may not practice or represent themselves as a nurse practitioner in Oregon until certification is complete, subject to civil penalty.

Stat. Auth.: ORS 678.375 & ORS 678.380

Stats. Implemented: ORS 678.380

Hist.: NER 34, f. & ef. 10-1-76; NER 5-1981, f. & ef. 11-24-81; NER 8-1985, f. & ef. 12-9-85; NB 3-1990, f. & cert. ef. 4-2-90; Renumbered from 851-020-0310; NB 2-1992, f. & cert. ef. 2-13-92; NB 8-1993, f. & cert. ef. 8-23-93; NB 7-1996, f. & cert. ef. 10-29-96; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0140

Renewal and Reactivation of Nurse Practitioner Prescriptive Authority

Nurse practitioner prescriptive authority may be renewed or reactivated by the Board provided there is satisfactory compliance with the following:

(1) Evidence that all requirements for renewal of the Oregon nurse practitioner certificate have been met and the certificate has been renewed;

(2) Evidence that there are no encumbrances on the nurse practitioner certificate which would affect prescription writing;

(3) Nurse practitioners who have the authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances shall submit evidence of the most current DEA Certificate to the Board office. Prescriptive authority renewal must be accompanied by evidence of DEA certification, if held.

(4) Nurse practitioners who do not hold DEA certification must verify this to the Board in writing at the time of renewal.

(5) Submission of an application and fees required by the Board. Fees are nonrefundable.

(6) If more than two years have elapsed since the nurse practitioner has held and utilized prescriptive authority, the nurse shall:

(a) Meet all the renewal requirements of OAR 851-050-0140; and

(b) Show evidence of satisfactory completion within the two years preceding reactivation of 40 contact hours of pharmacology as defined in OAR 851-050-0125, or 45 contact hours as of June 1, 2005.

(c) Nurse practitioners providing proof of current unencumbered prescriptive authority and application of pharmacotherapeutics through practice in another state may be exempted from 6(b).

(7) Nurse practitioners who fail to renew their prescriptive authority on or before the biennial birthdate deadline shall be delinquent and pay a delinquent fee. Applications postmarked after 60 days from the required renewal date shall require reactivation. Successful renewal or reactivation requires that all other criteria for eligibility is met. Late renewal or reactivation with continued practice is subject to a civil penalty and potential discipline.

Stat. Auth.: ORS 678.375 & ORS 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 3-1990, f. & cert. ef. 4-2-90; BN 5-2000, f. & cert. ef. 4-24-00; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0145

Requirements for Emergency Drug Dispensing Authority

(1) A nurse practitioner may make written application to the Board for emergency drug dispensing authority. The application shall include:

(a) Evidence of a current, unencumbered Oregon nurse practitioner certificate and prescriptive authority;

(b) The following information about the nurse practitioner's practice setting:

(A) Geographic location of practice;

(B) Distance in road miles to the nearest pharmacy;

(C) Business days and hours of that pharmacy;

(D) Accessibility of that pharmacy to client population served;

(E) General road and weather conditions;

(F) Description of client population served;

(G) Statement of need for emergency drug dispensing.

(2) The Board may grant emergency drug dispensing authority if, in the opinion of the Board, the lack of such authority would severely limit the ability of the nurse practitioner to meet prescription needs for the client population served congruent with OAR 851-050-0145(1).

(3) Emergency dispensing site authority shall include the following restrictions:

(a) Dispensing authority is site and practice setting specific.

(b) Emergency dispensing authority may be issued to expire with each prescriptive authority renewal date, or on a time-limited basis determined by the site and circumstance of the nurse practitioner's practice.

(c) In the event the practice location of the nurse practitioner changes, the nurse practitioner must notify the Board in writing of the change in practice setting within ten days. The change in setting removes dispensing authority from the nurse practitioner until such time as the nurse practitioner's new practice setting meets the requirements of OAR 851-050-0145 and the nurse practitioner is granted dispensing authority by the Board.

(4) Nurse practitioners with prescriptive authority who provide temporary relief of less than 60 days for nurse practitioners who have emergency dispensing authority may dispense drugs in order to meet the prescription needs of clients.

(5) Emergency dispensing authority does not permit dispensing of drugs from the nurse practitioner formulary which would otherwise be prohibited under current state or federal rules, regulations, or law.

(6) Nurse practitioners with dispensing authority shall be responsible for safe storage, distribution, and destruction of all drugs under their authority.

Stat. Auth.: ORS 678.375 & ORS 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 4-1989(Temp), f. & cert. ef. 7-31-89; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0150

Renewal of Emergency Drug Dispensing Authority

(1) Emergency dispensing authority may be renewed with each renewal of prescriptive privileges, provided that the nurse practitioner continues to meet criteria in OAR 851-050-0145(1).

(2) Documentation that the clinic continues to meet criteria shall be provided by the nurse practitioner seeking authority, and by the dispensing site itself if requested.

Stat. Auth.: ORS 678.375 & 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0155

Termination of Prescriptive or Dispensing Authority

(1) The Board may deny, suspend or revoke the authority to write prescriptions or dispense drugs for the causes identified in ORS 678.111(1) or proof that the authority has been abused.

(2) The abuse of the prescriptive or dispensing authority constitutes conduct derogatory to nursing standards and is defined as:

(a) Prescribing, dispensing, or distributing drugs not listed in the formulary;

(b) Prescribing, dispensing, administering, or distributing drugs for other than therapeutic or prophylactic purposes;

(c) Prescribing or distributing drugs to an individual who is not the nurse practitioner's client or is not within the scope of practice or type of client population served;

(d) Prescribing, dispensing, administering, or distributing drugs in an unsafe or unlawful manner or without adequate instructions to the client according to acceptable and prevailing standards or practice;

(e) Selling, purchasing, trading, or offering to sell, purchase or trade any drug sample;

(f) Dispensing drugs without either emergency dispensing authority or employment in a college health setting.

(g) Failure to notify the Board as required in OAR 851-050-0145(3).

Stat. Auth.: ORS 678.375 & ORS 678.390

Stats. Implemented: ORS 678.390

ADMINISTRATIVE RULES

Hist.: NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 3-1990, f. & cert. ef. 4-2-90; NB 7-1996, f. & cert. ef. 10-29-96; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03

851-050-0170

Rules Relating to Controlled Substances

(1) In the administration, distribution, storage, prescribing, and dispensing of controlled substances, nurse practitioners shall comply with all applicable requirements in the Code of Federal Regulations (CFR), Title 21, and state law including but not limited to ORS Chapters 430 and 475 and OAR chapters 415 and 855.

(2) Nurse practitioners shall not dispense a controlled substance without current Nurse Practitioner Emergency Dispensing authority which meets the requirements of OAR 851-050-0145. Distribution of prepackaged, complimentary drug samples is not considered dispensing (ORS 689.005(9)).

(3) Nurse practitioners who have authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances must verify evidence of such with their prescriptive authority renewal application. A nurse practitioner may choose to decline DEA certification, and must verify so in writing

(4) Storage and Inventory of Controlled Substances:

(a) Samples or quantities of controlled substances shall be stored in a securely locked cabinet on the premises of the nurse practitioner's practice location.

(b) Nurse practitioners who receive samples or quantities of controlled substances shall be responsible for the security and inventory of these drugs.

(c) Nurse practitioners shall maintain inventory records of controlled substances that they receive or distribute, for a period of three years. The records shall include:

(A) Drug name, amount received, date received, drug expiration date;

(B) Drug name, amount distributed, date distributed, to whom distributed;

(C) Drug name and the date and place where it was returned for destruction.

(d) Controlled substances that are expired, deteriorated, or unwanted shall be returned to a DEA registered disposal facility. This does not include controlled substances which are properly wasted at the facility where they were to be administered. In this context, "properly wasted" means the on-site destruction of a controlled substance in conformance with applicable state and federal law. Nurse practitioners shall not personally destroy controlled substances.

(e) Controlled substances must be transported in a secured, locked container.

(f) Client records shall state the distribution of controlled substance samples.

(g) Nurse practitioners who receive controlled substances shall cooperate with the Board in their inspection of records and physical inventory of controlled substances. Inventory of all controlled substances shall be taken by nurse practitioners responsible for their receipt and storage every year on the same date as the biennial inventory required by 21 CFR 1304.13.

(h) If requested by the Board, any nurse practitioner who receives controlled substances shall submit a copy of inventory records from the preceding two years for review.

(5) Prescribing Controlled Substances:

(a) Nurse practitioners shall only prescribe the controlled substances from Schedules II-V, as authorized by the Oregon State Board of Nursing. Nurse practitioners shall only prescribe at the level provided for on their DEA certificate.

(b) No controlled substances shall be prescribed by nurse practitioners unless included on the nurse practitioner formulary.

(c) Schedule II controlled substances shall not be prescribed for the purposes of weight reduction or control. Schedule III- IV controlled substances may be prescribed by nurse practitioners for weight reduction in accordance with FDA product guidelines.

(d) Nurse practitioners shall not prescribe or order controlled substances, including Methadone, for narcotic addiction treatment.

(6) Intractable Pain Management:

(a) Nurse practitioners may prescribe or administer controlled substances to a person in the course of their treatment for a diagnosed condition causing intractable pain, defined in OAR 851-050-0000.

(b) The diagnosis and treatment of intractable pain requires documentation of the following:

(A) Recent diagnosis of the condition (if acute or unstable), or past diagnosis (if chronic and stable) causing pain, by one or more licensed practitioners specializing in the treatment of the body area, system, or organ perceived as the source of intractable pain; and

(B) Consultation and review of the treatment plan with a licensed nurse practitioner or physician who is a recognized expert in pain management.

(c) Nurse practitioners must have a complete discussion with the patient or person authorized to make health care decisions for the patient regarding the diagnosis, as well as the risk, benefits, alternatives, side effects and potential for addiction and withdrawal of the controlled substance, along with any other applicable precautions. These discussions must be documented in the patient record. Documentation must include a plan for periodic review of patient response and follow-up.

(d) Nurse practitioners shall document patient use of controlled substances for chronic or intractable pain, including history and assessment to rule out substance abuse. Evidence of patient addiction to or abuse of controlled substances requires referral and/or transfer of care for diagnosis and treatment of the addiction.

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

Stat. Auth.: ORS 678.375, 678.380, 678.385 & 678.390

Stats. Implemented: ORS 678.375, 678.380, 678.385 & 678.390

Hist.: BN 5-2000, f. & cert. ef. 4-24-00; BN 6-2001, f. & cert. ef. 4-24-01; BN 10-2003, f. & cert. ef. 10-2-03

Board of Parole and Post-Prison Supervision Chapter 255

Adm. Order No.: PAR 5-2003

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

Certified to be Effective: 10-10-03

Notice Publication Date: 7-1-03

Rules Amended: 255-060-0009, 255-060-0011

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

Rules Coordinator: Michael R. Washington—(503) 945-0900

255-060-0009

Residence Requirements for Certain Sex Offenders Upon Release from Custody

(1) A sex offender classified as a sexually violent dangerous offender (ORS 137.765) or a predatory sex offender (ORS 181.765) may not reside near locations where children are the primary occupants or users.

(2) This prohibition applies to permanent housing and not to transitional housing. For purposes of this rule, transitional housing means housing intended to be occupied by a sexually violent dangerous offender or a predatory sex offender for 45 days or less immediately after release from custody.

(3) Exceptions to this prohibition may be made by the supervising parole/probation officer if it is determined that there is sufficient information to support this placement in terms of public safety and the rehabilitation of the offender. In making this determination, the following factors must be considered:

(a) Other residential placement options pose a higher risk to the community, or

(b) An enhanced support system that endorses supervision goals and community safety efforts is available at this residence, or

(c) Enhanced supervision monitoring will be in place (e.g. electronic supervision, curfew, live-in-care provider, along with community notification), or

(d) This residence includes 24-hour case management, or

(e) The offender is being released from prison unexpectedly and more suitable housing will be arranged as soon as possible. If any of these factors apply to the offender and the residence under review, an exception to the permanent residence prohibition may be allowed.

(4) The supervising officer must inform the community affected by this decision about the reasons for the decision prior to the offender's release from custody.

Stat. Auth.: ORS 144.644, 181.585

Stats. Implemented:

Hist.: PAR 5-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 2-2002, f. & cert. ef. 1-29-02; PAR 6-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02, PAR 7-2002, f. & cert. ef. 6-17-02; PAR 3-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03; PAR 5-2003, f. & cert. ef. 10-10-03

ADMINISTRATIVE RULES

255-060-0011

Procedures for Predatory Sex Offender

(1) For purposes of this rule, a person is a predatory sex offender if the person exhibits characteristics showing a tendency to victimize or injure others and has been convicted of one or more of the following offenses: Rape in any degree, Sodomy in any degree, Unlawful Sexual Penetration in any degree or Sexual Abuse in any degree. In determining whether an inmate or offender is a predatory sex offender under this rule, the Board shall use only the Sex Offender Risk Assessment Scale (Exhibit Q-I) and definitions (Exhibit Q-II) which have been approved by the Department of Corrections as required by ORS 181.585(2).

(2) The procedures set forth in this rule only apply to inmates or offenders whose original order of supervision is issued by the Board on or after January 1, 1999.

(3) Subject to the procedures set forth in this rule, the Board will make a finding that an inmate or offender is a predatory sex offender if the inmate or offender scores three or more starred (*) items or one or more automatic override item(s) on the Sex Offender Risk Assessment Scale. The Board may make a finding that an inmate or offender is a predatory sex offender if the inmate or offender scores less than three or more starred (*) items and has no automatic override item(s) but scores at least -50 on the Sex Offender Risk Assessment Scale.

(4) A finding that an inmate or offender is a predatory sex offender may be made by one Board Member. A finding that an offender is a predatory sex offender will be contained in the inmate's or offender's original order of supervision or an amended order of supervision.

(5) Inmates or offenders who score three or more starred (*) items or one or more automatic override item(s) on the Sex Offender Risk Assessment Scale have the right to be advised of their score and submit written objections to the Board before the Board makes a predatory sex offender finding. The Notice of Rights and Written Objections form for this rule are Exhibits Q-III and Q-IV of the Board's rules.

(a) Written objections must be received by a Department of Corrections' institution or release counselor, a supervising officer or the Board within three days of the date the offender or inmate signed the Notice of Rights (Exhibit Q-III).

(b) A Board Member must receive and review the signed Notice of Rights (Exhibit Q-III) or written documentation that the inmate or offender refused to sign the Notice of Rights before a predatory sex offender finding is made.

(c) A Board Member must consider any written objections to the score on the Sex Offender Risk Assessment Score timely submitted by the inmate or offender before making a predatory sex offender finding. A Board Member shall make the predatory sex offender finding if there is evidence to support a score on the Sex Offender Risk Assessment Scale (Exhibit Q-I) of three or more starred (*) items or one or more automatic override item(s) using the definitions for the Sex Offender Risk Assessment Scale (Exhibit Q-I).

(6) The Board may also make a predatory finding for inmates or offenders with a total score of at least -50 on the Sex Offender Risk Assessment Scale but fewer than three starred (*) items and no automatic override items.

(a) Inmates or offenders referred to in section (6) of this rule are entitled to a Morrissey-type hearing prior to the Board making a predatory sex offender finding. This hearing must be held in accordance with the rules governing supervision violations as set forth in OAR 255-075-0031 through 255-075-0056. OAR 255-075-0065 does not apply to this rule.

(b) Following the hearing, the hearing officer shall submit written findings to the Board. A Board Member must review these written findings prior to making a predatory sex offender finding. A Board Member shall make a predatory sex offender finding if the Board Member determines that the evidence presented at the hearing supports a score of at least -50 on the Sex Offender Risk Assessment Scale.

(7) Inmates or offenders may elect to waive their right to submit written objections or waive their right to participate in a hearing as set forth in this rule. Any such waiver must be in writing. When an inmate or offender waives their right to submit written objections or to participate in a hearing, the Board may make the predatory sex offender finding if the inmate's or offender's score on the Sex Offender Risk Assessment Scale is at least -50, or there are at least three starred (*) items or there is at least one automatic override item.

(8) Pursuant to ORS 181.586, the community corrections agency supervising an inmate or offender found to be a predatory sex offender shall notify anyone whom the agency determines is appropriate that the person is a predatory sex offender. The agency shall make this determination as required by ORS 181.586.

[ED. NOTE: Exhibits referenced in this rule are available from the agency.]
Stat. Auth.: Ch. 163, 1999 OL

Stats. Implemented:

Hist.: PAR 4-2000, f. & cert. ef. 2-15-00; PAR 1-2002(Temp), f. & cert. ef. 1-15-02 thru 7-13-02; PAR 4-2002, f. & cert. ef. 3-12-02; PAR 5-2003, f. & cert. ef. 10-10-03

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Notice Publication Date: 7-1-03

Rules Amended: 255-070-0001

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

Rules Coordinator: Michael R. Washington—(503) 945-0900

255-070-0001

Conditions Not Limited by Exhibit J

(1) The Board may order parole conditions pursuant to OAR 255-070-0015.

(2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-011-0001.

(3) Conditions of parole and post-prison supervision are not limited to those shown in Exhibit J.

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

Stat. Auth.: ORS 144.096, ORS 144.102 & ORS 144.270

Stats. Implemented:

Hist.: 2PB 15-1985, f. & ef. 5-31-85; 2PB 1-1986(Temp), f. & ef. 11-3-86; PAR 2-1987, f. & ef. 4-1-87; PAR 5-1988(Temp), f. & ef. 4-15-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 4-1990, f. & cert. ef. 6-29-90; cert. ef. 7-1-90; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1993, f. & cert. ef. 10-15-93; PAR 5-1993(Temp), f. & cert. ef. 12-3-93; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 3-1994, f. & cert. ef. 11-9-94; cert. ef. 12-1-94; Administrative correction 8-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 2-1999, f. & cert. ef. 1-15-99; PAR 6-1999(Temp), f. & cert. ef. 9-15-99 thru 3-12-00; PAR 9-1999, f. & cert. ef. 11-15-99; PAR 5-2000, f. & cert. ef. 5-22-00; PAR 6-2001(Temp), f. & cert. ef. 12-10-01; cert. ef. 1-1-02 thru 6-29-02; PAR 3-2001, f. & cert. ef. 2-29-02; PAR 5-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02; PAR 8-2002, f. & cert. ef. 6-17-02; PAR 4-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03; PAR 6-2003, f. & cert. ef. 10-10-03

Adm. Order No.: PAR 7-2003

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

Certified to be Effective: 10-10-03

Notice Publication Date: 7-1-03

Rules Amended: 255-075-0056

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

Rules Coordinator: Michael R. Washington—(503) 945-0900

255-075-0056

Hearings Record

(1) The hearings record shall include:

(a) A Hearings Report Summary;

(b) A written statement of alleged violations;

(c) Supporting materials, including documentary evidence admitted;

(d) A signed Notice of Rights;

(e) The Order of Parole or Post-Prison Supervision;

(f) A notice of time and place of hearing;

(g) A tape recording of the advice of rights and the hearing;

(h) the supervising officer's report, including recommended dispositions;

(i) The history of supervision, local sanctions and modifications; and

(j) If any, the written waiver of the offender's right to three working days notice of the hearing.

(2) The Hearings Officer shall retain the tape recording used in subsection (1)(g) of this rule for (4) four years.

Stat. Auth.: ORS 144.343

Stats. Implemented: ORS 144.096, 98, 102, 106, 108, 346 & Ch. 525 OL 1997

Hist.: 2PB 1-1984(Temp), f. & ef. 11-19-84; 2PB 1-1985, f. & ef. 2-28-85; PAR 1-1988(Temp), f. & cert. ef. 3-11-88, ef. 3-14-88; PAR 6-1988, f. & ef. 5-19-88; PAR 3-1989, f. & cert. ef. 10-13-89, ef. 10-16-89; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 11-1997(Temp), f. & cert. ef. 11-14-97; PAR 1-1998, f. & cert. ef. 5-11-98; PAR 9-2002, f. & cert. ef. 6-17-02; PAR 6-2003, f. & cert. ef. 10-10-03

ADMINISTRATIVE RULES

Board of Tax Practitioners Chapter 800

Adm. Order No.: BTP 1-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 12-1-02

Rules Amended: 800-001-0010, 800-010-0017, 800-010-0025, 800-015-0005, 800-015-0010, 800-015-0020, 800-015-0030 800-020-0015, 800-020-0020, 800-020-0025, 800-020-0026, 800-030-0025, 800-030-0050

Subject: The Oregon Administrative Rule revisions the Board of Tax Practitioners is requesting a permanent filing for, are to change language to better reflect Oregon Revised Statutes 673.605-673.740 & 673.990. The amendments help to clarify the Board's intent for the Oregon Administrative Rules - this includes changing words and/or phrases to more accurately reflect the Board's intentions.

Rules Coordinator: Monica J. Leisten—(503) 378-4034

800-001-0010

Assistance in Hearing

(1) The Board Administrator or Compliance Specialist is authorized to appear (but not make legal argument) on behalf of the agency in a hearing or in a class of contested case hearings in which the Attorney General or the Deputy Attorney General has given written consent for such representation. A copy of the list of contested case hearings for which the Attorney General or the Deputy Attorney General has given consent is maintained by the agency and the Department of Justice.

(2) Legal argument as used in ORS 183.450(8) and this rule has the same meaning as in Model Rule OAR 137-003-0008(1)(d).

(3) When an agency employee represents the agency, the presiding officer shall advise such representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 7-1990, f. & cert. ef. 9-4-90; BTP 1-2003, f. & cert. ef. 9-23-03

800-010-0017

Incompetence and Negligence

Under ORS 673.700(3):

(1) A licensee is incompetent who has engaged in conduct which evidenced a lack of ability or fitness to perform his or her professional functions.

(2) A licensee is negligent who has engaged in detrimental conduct of such magnitude as to indicate a willful indifference to the consequences of his or her actions.

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8-1990, f. & cert. ef. 9-4-90; TSE 9-1990(Temp), f. & cert. ef. 10-30-90; TSE 1-1991, f. & cert. ef. 1-3-91; BTP 1-2003, f. & cert. ef. 9-23-03

800-010-0025

Integrity and Objectivity

(1) A licensee shall not knowingly misrepresent facts while preparing or advising in the preparation of income tax returns. A licensee may resolve doubt in favor of a client if there is reasonable support for the position.

(2) A licensee who finds that a client has made an error or omitted information or related material required on an income tax return shall promptly advise the client of such error or omission.

(3) A licensee shall not arrange for or permit a client's individual income tax refund check to be mailed to the licensee at any time, for any purpose.

(4) Commissions earned for the personal services of the licensee, such as real estate, insurance, investment and securities sales, may be earned if the licensee also holds any license, permit or registration required by law to perform the services. A licensee shall disclose in writing that s/he will be compensated for any personal services. The client will acknowledge receipt of the disclosure in writing.

(5) Fees in connection with preparation of tax returns must be stated separately from, and in addition to, any other professional services provided.

(6)(a) A licensee shall, upon written request by a client, make available or return within a reasonable time to the client, personal papers or source material in the manner furnished to the licensee by the client;

(b) A licensee who has provided a tax return to a client shall, upon written request by the client, make available within a reasonable time to the client, copies of depreciation schedules that support the return;

(c) A licensee is not required to furnish records to a client more than once under this subsection.

(7) A licensee shall not engage in fraudulent, deceptive or dishonest conduct relating to the licensee's professional practice.

(8) A licensee shall not violate any position of trust, including positions of trust outside the licensee's professional practice.

Stat. Auth.: ORS 673.730(6)

Stats. Implemented:

Hist.: TSE 6, f. & ef. 1-5-76; TSE 3-1980, f. & ef. 8-22-80; TSE 1-1985, f. & ef. 1-15-85; TSE 4-1986, f. & ef. 8-15-86; TSE 3-1989, f. & cert. ef. 12-20-89; TSE 1-1992, f. 3-24-92, cert. ef. 6-1-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0005

Basic Education

(1) An accredited college or university or a private firm that has met or is exempt from the registration requirements of the Oregon Department of Education or a private firm offering classes only to its own employees and is exempt from the Oregon Department of Education requirements may act as a sponsor for the basic income tax course.

(2) Sponsors shall apply for course certification on a form provided by the Board.

(3) A basic course shall include:

(a) At least 80 classroom hours of basic tax preparation instruction. If the course is offered through correspondence, it must be the equivalent of 80 classroom hours of instruction;

(b) Instruction in each of the subject areas specified in the Preparer Examination Index maintained by the Board;

(c) Sufficient working problems to instruct in the use of appropriate forms and schedules; and

(d) A midterm and final examination.

(4) The Board may require that a sponsor applicant submit evidence that course materials and lesson plans comply with section (3) of this rule.

(5) Basic course sponsors shall employ only instructors to teach basic courses who are actively licensed or who fall within the exemptions of ORS 673.610 and who prepared taxes for at least 2 tax seasons immediately prior to teaching the course.

(a) The Board may grant a specific waiver to instructor qualifications when unusual or extenuating circumstances exist.

(b) Sponsors shall submit to the Board the names and qualifications of instructors teaching each basic course.

(c) Repeated low passage rates of an instructor's students on the tax preparers' examination is evidence that the instructor may not be qualified to teach a basic tax preparation course.

(d) The instructor's approval to teach Basic Tax Preparation courses may be revoked at the option of the Board.

(6) Evidence of successful course completion shall be furnished to students by course instructors on a Board-approved session attendance certification form. Forms may be reproduced by course sponsors. If a student misses a portion of the class sessions, the instructor may provide makeup work.

(7) Applications for course certification shall be submitted annually at least 60 days prior to the course starting. Certification shall be for the subsequent 12 months.

(8) The Board may refuse to issue or withdraw a course certification for failure to meet any of the course or instructor requirements contained in this rule.

Stat. Auth.: ORS 673.625(1)

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; Renumbered from OAR 800-020-0040 by TSE 2-1980, f. & ef. 5-30-80; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1990, f. & cert. ef. 1-25-90; TSE 7-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0010

Continuing Education

(1) Except for renewal of an initial license, a tax consultant or tax preparer renewing a license shall submit evidence of attending at least 30 hours of acceptable continuing education since the last renewal date.

ADMINISTRATIVE RULES

(2) Continuing education credit will be accepted only for courses and seminars that comply with all Board rules regarding continuing education.

(3) The Board may verify continuing education information submitted by licensees.

(4) Education hours earned in excess of 30 hours annually cannot be carried over from one renewal period to the next, except extra hours earned during the month of renewal may be withheld by the licensee and submitted with the following year's renewal.

(5) Continuing education credit shall be granted only once during a license year for attendance at duplicate seminars offered by the same sponsor.

(6) Continuing education credit for courses at accredited universities and colleges will be 15 hours for each semester hour credit and 10 hours for each quarter hour credit. For all other courses and seminars, one hour of continuing education credit will be allowed for each hour of classroom attendance.

(7) Continuing education credit may be accepted for instructors of basic or advanced courses or seminars. The credit allowed will be one hour for each hour of teaching.

(8) Correspondence study courses may be accepted if the program and sponsor comply with all Board rules regarding continuing education and:

(a) The sponsor requires evidence of satisfactory completion of workbooks or examinations before certificates are issued.

(b) The hours credited do not exceed the credit that would be allowed in a resident course covering the same material; and

(c) A course outline with accompanying workbooks or exams is submitted to the Board, prior to offering the material, for approval of course content and hours of credit claimed.

(9) "In-Company" instruction may be accepted if the course or seminar is presented to ten or more people and all other requirements for continuing education sponsors are met. Portions of such educational sessions devoted to administrative and firm matters shall not be accepted.

(10) If a licensee claims credit for a course or seminar in the reasonable belief the instruction qualifies as acceptable continuing education, but the Board finds all or part of the hours claimed to be unacceptable, the licensee may be granted an additional period of time, not to exceed 60 days, to make up the rejected hours.

(11) Consultants and Preparers who have extenuating circumstances and are unable to obtain all their continuing education by their license due dates shall, upon written request and approval of the Board, be allowed three additional months, at no extra cost, to obtain the remaining continuing education hours. Prepares will be allowed until December 31 and Consultants until August 31.

Stat. Auth.: ORS 673.645 - ORS 673.667

Stats. Implemented: ORS 673.645 - ORS 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 3-1980, f. & ef. 8-22-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 9-1987, f. & ef. 12-21-87; TSE 1-1997, f. & ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0020

Continuing Education Program Requirements

(1) Acceptable continuing education is that which contributes directly to the expertise of the individual in the preparation of income tax returns, and is presented by a sponsor who meets the requirements of all Rules. It is the obligation of each licensee to select a course of study which will contribute to his or her competence in the preparation of income tax returns.

(2) The following general subject matters are acceptable:

(a) Taxation.

(b) Practitioner Ethics.

(c) Accounting and payroll theory directly related to taxation.

(d) Estate, tax or investment planning.

(e) Others, if the licensee can demonstrate a direct relationship to the preparation of a client's income tax returns.

(3) Programs primarily directed towards the licensee's personal benefit, rather than that of his or her clients, and programs relating primarily to general business management, are unacceptable. Some examples of unacceptable subjects are:

(a) Memory improvement.

(b) Buying or selling a tax practice.

(c) Setting fee schedules.

(d) Character development.

(e) Behavior modification.

(f) Business management

(g) Labor law.

(h) Economic forecasts.

(i) Learning to operate office equipment.

(4) Programs must be at least one hour in length, including reasonable breaks, with credit given in whole hours only.

(5) Programs must be conducted by a qualified instructor whose background, training, education or experience make it appropriate for the person to lead a discussion on the subject matter of the particular program.

Stat. Auth.: ORS 673.645 - ORS 673.667

Stats. Implemented: ORS 673.645 - ORS 673.667

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 2-1989, f. & cert. ef. 10-27-89; TSE 8-1992, f. & cert. ef. 12-22-92; TSE 2-1997, f. & cert. ef. 7-2-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-015-0030

Continuing Education and Basic Sponsor Requirements

(1) Sponsors shall:

(a) Maintain for at least two years an outline of each program presented;

(b) Maintain for at least two years a record of attendance for each program presented;

(c) Maintain for at least two years a record of instructor names, addresses and qualification; and

(d) Provide the student a certificate or other verification of completion at the conclusion of the program. If the sponsor is an accredited college or university, a student transcript or grade report showing the credit earned will be acceptable verification. For all other sponsors, the certification shall include:

(A) Student's name;

(B) Sponsor's name and address;

(C) Location of program;

(D) Title of program;

(E) Date(s) attended;

(F) Number of classroom hours of instruction.

(2) Sponsors must conduct their programs in an honest and ethical manner.

Stat. Auth.: ORS 673.655

Stats. Implemented:

Hist.: TSE 9, f. & ef. 6-28-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 2-1980, f. & ef. 5-30-80, Renumbered from OAR 800-020-0045; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1995, f. & cert. ef. 5-5-95; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0015

Application for Examination

(1) Application to take the examination for a tax preparer or tax consultant must be filed with the Board on forms prescribed and furnished by the Board, together with the examination fee. The application must be signed.

(2) The application and examination fee shall be filed with the Board no later than one month prior to the examination date, except when the Board sets tighter deadlines due to time constraints.

(3) Tax preparer applicants may file an application before completing the basic tax course. Applicants who have completed a course of study which has not received prior approval of the Board shall furnish the Board a brief outline of courses completed, together with a transcript from the educational institution. If, in the judgment of the Board, the courses completed are comparable to those described in OAR 800-015-0005, the applicant shall be eligible to take the examination.

(4) Basic course certification forms as required under OAR 800-015-0005(6) shall be submitted to the Board by the student together with application to take the tax preparer's examination. If the student has not completed the tax course prior to filing the examination application, the basic course certification shall be submitted with application for license.

(5) A tax consultant applicant who is a licensed tax preparer shall submit verification by the applicant's employer or employers, on forms prescribed and furnished by the Board, that the applicant has worked in the capacity of a tax preparer for not less than a cumulative total of 780 hours during at least two of the last five years.

(6) A tax consultant applicant who is claiming equivalent tax preparer experience shall submit on forms prescribed and furnished by the Board:

(a) Verification by the applicant's employer or employers that the applicant has worked in the capacity of a tax preparer for not less than a cumulative total of 780 hours during at least two of the last five years.

ADMINISTRATIVE RULES

(A) The Board will accept employment as an income tax auditor or taxpayer service representative with the Internal Revenue Service or State Department of Revenue as being equivalent experience.

(B) For the purpose of meeting the work experience requirement for tax consultants, one hour of experience gained through volunteer tax preparation programs such as VITA and AARP-TCE will be accepted for each five hours spent preparing, advising or assisting in the preparation of tax returns through the volunteer program, up to a maximum of 150 hours credited. To qualify for the one to five hour experience credit, total hours worked in the volunteer program must be verified in writing by a supervisor.

(b) To claim experience under this section, the applicant must submit a petition signed under penalty of perjury that the work experience claimed is true, correct and complete.

(7) A tax consultant applicant claiming tax consulting experience in another state shall:

(a) Submit, on form prescribed and furnished by the Board, a petition signed under penalty of perjury, claiming self-employment as a tax consultant for no less than two of the last five years; and

(b) Furnish documented proof of self-employment as a tax consultant.

(8) A tax preparer or tax consultant applicant who has worked in the capacity of a tax preparer or tax consultant in another state or in an exempt status may request Board approval to substitute work experience for up to two-thirds of the classroom hours of basic income tax education otherwise required to qualify as a tax preparer or tax consultant. Approval may be granted to substitute experience for education only if:

(a) The applicant was actively engaged in a tax preparation business within two years prior to the date of application;

(b) The applicant has at least three years experience in a tax preparation business;

(c) In the opinion of the Board, the applicant has gained a competency level through work experience that is equal to those applicants who have successfully completed the basic income tax course; and

(d) The applicant submits verification by the applicant's employer(s) or evidence of self-employment regarding the work experience.

(9) The Board may accept education credit for courses completed by a tax consultant applicant to substitute for up to 260 hours of work experience at the rate of one classroom hour of education for five hours of experience if:

(a) The subject matter of the course was related to taxation;

(b) The applicant completed the course within one year of applying to become a tax consultant; and

(c) Credit for the course is not claimed to fulfill continuing education requirements.

(10) Information required of the applicant and on the application forms shall be completed before an applicant may be admitted to an examination.

Stat. Auth.: ORS 673.625

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1979, f. 9-28-79, ef. 10-1-79; TSE 2-1980, f. & ef. 5-30-80; TSE 2-1982, f. & ef. 5-10-82; TSE 3-1982, f. & ef. 11-19-82; TSE 1-1985, f. & ef. 1-15-85; TSE 3-1985, f. & ef. 12-5-85; TSE 4-1988, f. & cert. ef. 11-2-88; TSE 5-1990, f. & cert. ef. 5-3-90; TSE 9-1992, f. & cert. ef. 12-22-92; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0020

Examinations

(1) Licensing examinations shall be scheduled as the Board deems appropriate.

(2) Tax preparer and tax consultant applicants examination shall be written. Questions shall be so constructed as to measure the applicant's knowledge of Oregon and federal personal income tax law, theory and practice; the provisions of ORS 673.605 to 673.735 and the **Code of Professional Conduct**. The tax consultant examination shall require a higher standard of knowledge.

(3) A tax preparer applicant must have at least a 75 percent grade or score on the entire examination to pass.

(4) A tax consultant applicant must have at least a 75 percent grade or score on Part A of the examination and at least a 75 percent grade or score on Part B of the examination to pass. However, a person who passes only one part of the examination shall have thirteen months from the date of such examination to retake and pass the other part in order for the successfully completed portion of the examination to remain valid. Failure to retake and pass the part of the examination failed within the prescribed period shall necessitate the submission to and passing of another complete examination.

(5) Pass or fail results of the examination shall be mailed to the applicants. Scores shall be furnished to all candidates. No review of examination questions by the applicant will be granted.

(6) An applicant who fails to pass the examination shall be eligible for a succeeding examination upon making application and payment of the examination fee.

(7) An applicant who passes an examination must apply for licensing within 60 days from the examination date. If application for license is not made within 60 days, the applicant must be reexamined, unless there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

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

Stat. Auth.: ORS 673

Stats. Implemented:

Hist.: TSE 8, f. & ef. 5-19-76; TSE 10(Temp), f. & ef. 11-29-76 thru 3-28-77; TSE 11, f. & ef. 4-6-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1980, f. & ef. 5-30-80; TSE 1-1981 (Temp), f. 1-2-81, ef. 1-5-81; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1984(Temp), f. & ef. 12-20-84; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1985(Temp), f. & ef. 6-11-85; TSE 2-1986, f. & ef. 7-14-86; TSE 4-1987, f. & ef. 10-2-87; TSE 1-1989, f. & cert. ef. 6-8-89; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0025

Fees

(1) The fee for application for examination for a tax preparer's license is \$40.

(2) The fee for application for examination for a tax consultant's license is \$70.

(3) The fee for issuance or renewal of a tax preparer's active license is \$65.

(4) The fee for an initial Preparer license issued within 6 months of the renewal date will be one-half the annual fee.

(5) Except as provided in subsection (a) of this section, the fee for issuance of a tax consultant's active license is \$75.

(a) If an applicant holds an active tax preparer's license which was renewed less than six months previously, the fee for issuance of a tax consultant's active license is offset by a credit equal to 50% of the preparer license fee.

(6) The fee for renewal of a tax consultant's active license is \$75.

(7) The fee for issuance or renewal of a tax preparer's inactive license is \$35.

(8) The fee for issuance or renewal of a tax consultant's inactive license is \$50.

(9) The fee for reactivation of a tax preparer's inactive license is \$65.

(10) The fee for reactivation of a tax consultant's inactive license is \$75.

(11) The fee for restoration of a tax preparer's or tax consultant's lapsed license is \$25, plus payment of all unpaid renewal fees.

(12) The fee for a replacement or duplicate license is \$10.

(13) The fee for a replacement tax consultant's certificate is \$15.

(14) The fee for issuance or renewal of a tax preparation business registration is \$95.

(15) The fee for issuance or renewal of a combination tax consultant's or tax preparer's license and tax preparation business registration is \$120.

(16) The fee for issuance or renewal of a branch office registration is \$5.

Stat. Auth.: ORS 673.730

Stats. Implemented: ORS 673.685

Hist.: TSE 4(Temp), f. & ef. 11-20-75 through 3-19-76; TSE 8, f. & ef. 5-19-76; TSE 14, f. 10-25-77, ef. 11-1-77; TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 3-1979, f. 11-28-79, ef. 11-30-79; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 1-1987(Temp), f. 6-30-87, ef. 7-1-87; TSE 5-1987, f. & ef. 10-2-87; TSE 7-1987(Temp), f. & ef. 11-17-87; TSE 1-1988, f. & cert. ef. 2-19-88; TSE 4-1990, f. & cert. ef. 5-3-90; TSE 3-1991(Temp), f. 8-14-91, cert. ef. 9-29-91; TSE 5-1991, f. & cert. ef. 10-28-91; TSE 12-1991(Temp), f. & cert. ef. 11-25-91; TSE 3-1992, f. 5-15-92, cert. ef. 6-1-92; TSE 3-1997, f. & cert. ef. 9-4-97; BTSE 1-2001, f. & cert. ef. 4-19-01; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administration correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03

800-020-0026

Refunds of Examination Fees

(1) A \$10 nonrefundable processing charge shall be retained from all examination application fees. The remainder of an examination application fee shall be refunded only when the applicant is not qualified or when there are verifiable circumstances beyond the reasonable control of the applicant, subject to the discretion of the Board.

(2) Except as provided in section (3) of this rule, an applicant who has been approved to sit for the examination but who fails to take or pass the examination shall not be entitled to a refund of the examination fee.

(3) If application for examination is made in anticipation of successfully completing the required basic course and the applicant fails to com-

ADMINISTRATIVE RULES

plete the required course a refund of the examination fee will be issued only if:

(a) The applicant establishes that failure to successfully complete the course was beyond the reasonable control of the applicant subject to the discretion of the Board; and

(b) The applicant notifies the Board within 30 days before or after the scheduled exam date.

Stat. Auth.: ORS 673.730(3)

Stats. Implemented:

Hist.: TSE 1-1979, f. 6-14-79, ef. 6-15-79; TSE 2-1982, f. & ef. 5-10-82; TSE 1-1983, f. & ef. 3-10-83; TSE 1-1985, f. & ef. 1-15-85; TSE 2-1986, f. & ef. 7-14-86; TSE 6-1991, f. & cert. ef. 10-28-91; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

800-030-0025

Daily Civil Penalty

(1) Pursuant to ORS 673.735, the Board may impose civil penalties of not more than \$5,000 for each violation of ORS 673.605 to 673.740, or any rule adopted thereunder. In the case of violations of ORS 673.615, 673.643, or 673.705(5), or OAR 800-010-0025(7) or 800-010-0042, the Board may consider each business day a person continues in violation following Board notification to be a separate violation.

(2) Unless otherwise ordered by the Board, payment of any civil penalty imposed by the Board must be made within 60 days of the date a final order assessing the penalty is issued. If the civil penalty is not paid within that time, in addition to any other action allowed by law or Board rules, proceedings may be instituted to suspend, revoke or refuse to renew the tax consultant's or tax preparer's license of the person against whom the penalty is assessed.

Stat. Auth.: ORS 673.735

Stats. Implemented: ORS 673.735

Hist.: TSE 1-1985, f. & ef. 1-15-85; BTSE 1-1998, f. & cert ef 9-3-98; BTSE 1-2002(Temp), f. & cert. ef. 8-6-02 thru 1-1-03; Administrative correction 4-16-03; BTP 1-2003, f. & cert. ef. 9-23-03

800-030-0050

Purchase of Board-Provided Materials

Materials and services available to the public and licensees through the Tax Board may be purchased as follows:

(1) One time list of current licensees: \$25.00. Monthly subscription to a list of all licensees \$120 per year.

(2) Tape duplicates of tape recordings of Board meetings, disciplinary hearing, etc: Blank tape (90 min.) \$5.00 each, plus \$5.00 labor per tape, plus mailing costs.

(3) One year subscription, Board Meeting Minutes: \$24.00.

(4) Advertising for help-wanted and tax-related services or products in Board Newsletter:

(a) \$10.00 per 3-3/8 inch line or part line.

(b) \$350 for a full page ad.

(c) \$180 for a half page ad.

(d) \$100 for a quarter page ad.

(e) \$50 for a business card size ad.

(5) Oregon Revised Statutes Chapter 673 and Oregon Administrative Rules Chapter 800 will be provided upon request at no charge.

(6) Duplicating requests requiring multiple records search: Labor at an hourly rate of \$30 and 5 cents per page duplicating. (Adopted 4/90)

(7) Advertising of Tax Consultant or Tax Business on the Board Web site:

(a) Name, address (physical and e-mail), and phone: \$5.00 per year per county.

(b) An additional \$5.00 per county annual fee may be charged for a link to a licensee's tax preparation related web site.

(c) Licensees and businesses must be in good standing with the Board to obtain and maintain this service.

Stat. Auth.: ORS 192, ORS 670 & ORS 673

Stats. Implemented: N/A

Hist.: TSE 5-1986, f. & ef. 10-6-86; TSE 6-1990, f. & cert. ef. 5-3-90; BTSE 1-1999, f. & cert. ef. 11-23-99; BTSE 1-2001, f. & cert. ef. 4-19-01; BTP 1-2003, f. & cert. ef. 9-23-03

Bureau of Labor and Industries Chapter 839

Adm. Order No.: BLI 5-2003

Filed with Sec. of State: 9-17-2003

Certified to be Effective: 10-1-03

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 July 1, 2003 to include amendments effective October 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 July 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 July 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) Amendment to Oregon Determination 2003-02 (effective October 1, 2003).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 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; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03

Construction Contractors Board Chapter 812

Adm. Order No.: CCB 9-2003

Filed with Sec. of State: 9-29-2003

Certified to be Effective: 1-1-04

Notice Publication Date: 9-1-03

Rules Amended: 812-003-0000

Subject: After notice and hearing on May 27, 2003, OAR 812-003-0000(11) was filed as a permanent rule on June 3, 2003. This rule establishes a fee increase for license reinstatements effective October 1, 2003. At the August 5, 2003, Construction Contractors Board meeting, Board members determined that license fee increases would not be necessary until January 1, 2004, to adequately fund the CCB for the 2003-05 biennium. The rule amendment delays implementation of the reinstatement fee increase until January 1, 2004, to coincide with the implementation of the license fee implementation date.
Rules Coordinator: Cathy Heine—(503) 378-4621, ext. 4077

812-003-0000

Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS Chapter 701 through the use of another entity's license.

(2) The Board adopts the form "Independent Contractor Certification Statement" as approved October 24, 1989, as required by ORS 701.075(3).

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture seeks to change to another entity, the former license may be terminated. The new entity must license anew.

(4) All partners within a partnership shall be on record with the Construction Contractors Board. Partnerships consisting of spouses shall be treated the same as partnerships consisting of unrelated persons. License becomes invalid upon any change in the composition of that partnership.

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(5) Each entity shall:

(a) List on its license application or renewal all assumed business names under which business as a contractor is conducted. All assumed business names listed shall be on record with the Corporation Division; and

(b) Provide evidence to the agency that the applicant's responsible managing individual has completed the education required by ORS 701.280 as governed by division 6 of these rules.

(c) List on its license application or renewal the Standard Industrial Classification (SIC) code number of its main construction activities.

(6)(a) A license card is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The surety bond remains in effect and undiminished by payment of Construction Contractors Board final orders; and

(B) The insurance required by ORS 701.105 remains in effect; and

(C) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(D) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(E) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee's bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(e) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(7) No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

(8) License number in advertising and contracts:

(a) All newspaper classified advertising and newspaper display advertising for work subject to ORS Chapter 701 prepared by a contractor or at the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS Chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) Except as set forth in sub paragraph (e) all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor's license number. This rule is effective upon filing for all contractors filing for new license, and is effective for all existing contractors when they purchase new business cards, business letterhead, and business signs for construction sites, or January 1, 1998, whichever date occurs sooner.

(e) Sub paragraph (d) does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(9) The initial two-year license fee for all license applications received on or after January 1, 2004 is \$295 for all categories.

(10) The two-year renewal fee for all license renewals with a renewal date of January 1, 2004, and after and all other license renewal applications received by the agency on or after January 1, 2004 is \$295 for all categories.

(11) The reinstatement fee is \$20 for all categories.

(a) Except as set forth in (b), the reinstatement fee shall be charged for any renewal, reissue, or reinstatement received by the agency after the prior license expiration date.

(b) The agency may waive the reinstatement fee if:

(A) The properly-completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(B) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) A person licensed as a General Contractor – All-Structures may also perform the work of a Specialty Contractor – All-Structures. A person licensed as a General Contractor – Residential-Only may also perform the work of a Specialty Contractor – Residential-Only.

(13) A Limited Contractor may perform Specialty Contractor, General Contractor, residential, small commercial and large commercial construction work, so long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000;

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000;

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000;

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with subsection (a).

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(14) An Inspector may perform inspections, but may not construct, alter, repair, add to, subtract from, improve, move, wreck or demolish for another, any building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or do any part thereof, or act as a contractor performing construction management on a project that involves any of these activities.

(15) The following surety bond amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the bond amount required is as follows:

(A) General Contractor – All Structures – \$10,000.

(B) General Contractor – Residential – \$10,000.

(C) Specialty Contractor – All Structures – \$5,000.

(D) Specialty Contractor – Residential – \$5,000.

(E) Limited Contractor – \$2,000.

(b) As required by ORS 701.085 as amended by chapter 325, 1999 Session Laws, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the bond amount required is as follows:

(A) General Contractor – All Structures – \$15,000.

(B) General Contractor – Residential – \$15,000.

(C) Specialty Contractor – All Structures – \$10,000.

(D) Specialty Contractor – Residential – \$10,000.

(E) Limited Contractor – \$5,000.

(F) Inspector – \$10,000.

(c) A contractor may obtain or maintain a bond in an amount that exceeds the amount required under subsection (b) of this section if the bond obtained or maintained is in an amount that is equal to an amount required under subsection (b) of this section.

(16) The following general liability insurance amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the following general liability insurance amount is required as follows:

(A) General Contractor – All Structures – \$500,000.

(B) General Contractor – Residential – \$100,000.

(C) Specialty Contractor – All Structures – \$500,000.

(D) Specialty Contractor – Residential – \$100,000.

(E) Limited Contractor – \$100,000.

(b) As required by ORS 701.105, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the following general liability insurance amount is required as follows:

(A) General Contractor – All Structures – \$500,000.

(B) General Contractor – Residential – \$500,000.

(C) Specialty Contractor – All Structures – \$500,000.

(D) Specialty Contractor – Residential – \$300,000.

(E) Limited Contractor – \$100,000.

(F) Inspector – \$300,000.

(17) A fee of \$20 shall be charged for any changed license category.

(18) On all construction projects regulated under the state Prevailing Wage Law, ORS 279.348 to 279.365 or the Davis Bacon Act and related acts, 40 USC 276a, the primary contractor shall provide the list of subcontractors required by ORS 701.055(11) to the contracting public agency and

ADMINISTRATIVE RULES

to the Wage and Hour Division of the Bureau of Labor and Industries, 800 NE Oregon #32, Portland, OR 97232.

(a) The initial list of subcontractors will be submitted to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries on the same date that the initial Payroll and Certified Statement form (WH-38) is due. Instructions for submitting form WH-38 are contained in OAR 839-016-0010.

(b) The primary contractor will prepare and submit updated lists of subcontractors with each submittal of the Payroll and Certified Statement form (WH-38).

(19) A contractor shall not engage in dishonest or fraudulent conduct injurious to the welfare of the public.

(20) A contractor shall cooperate fully with any investigation undertaken by the Board pursuant to ORS 701.225.

[ED. NOTE: Forms & Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310, 701.235, 701.280, 701.992 & 183.310-183.500

Stats. Implemented: ORS 701.055, 701.075, 701.102, 701.125 & 701.280

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 2-1982, f. 4-1-82, ef. 7-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0010; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 1-1987, f. & ef. 3-5-87; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 8-1992(Temp), f. & cert. ef. 12-4-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 4-1996, f. 11-7-96, cert. ef. 11-8-96; CCB 5-1996, f. 11-25-96, cert. ef. 11-27-96; CCB 7-1996, f. & cert. ef. 12-11-96; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 5-2003, f. 6-3-03, cert. ef. 10-1-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 8-2003, f. 8-8-03, cert. ef. 1-1-04; CCB 9-2003, f. 9-29-03, cert. ef. 1-1-04

Adm. Order No.: CCB 10-2003(Temp)

Filed with Sec. of State: 9-29-2003

Certified to be Effective: 10-1-03 thru 3-27-04

Notice Publication Date:

Rules Amended: 812-002-0540, 812-003-0000, 812-003-0020, 812-003-0025

Rules Suspended: 812-002-0240

Subject: OAR 812-002-0240 is suspended because the rule was solely for the purposes of defining “developer” as used in OAR 812-002-0540. The word “developer” is deleted from OAR 812-002-0540 since it is no longer necessary once SB 906 becomes operative on October 1, 2003. OAR 812-002-0540 is amended to delete the word “developer” from the definition of “owner of a structure” which is no longer necessary when SB 906 becomes operative on October 1, 2003.

OAR 812-003-0000, 812-003-0020, and 812-003-0025 are amended to implement SB 906 that becomes operative on October 1, 2003, and amends ORS 701.005 by adding a new licensed developer category to the statute.

Rules Coordinator: Cathy Heine—(503) 378-4621, ext. 4077

812-002-0240

Developer

“Developer” is a person who owns property and contracts with a primary contractor to construct, improve or alter one or more structures on the land for the purpose of selling structures.

Stat. Auth.: ORS 670.310, ORS 701.235

Stats. Implemented: ORS 701.005 & ORS 701.055

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; Suspended by CCB 10-2003(Temp), f. 9-29-03, cert. ef. 10-1-03 thru 3-27-04

812-002-0540

Owner of a Structure

(1) “Owner of a structure” means a person not required to be licensed under ORS Chapter 701 who:

(a) Has a structure built by contractor;

(b) Purchases or enters into an agreement to purchase a structure from a contractor or developer; or

(c) Owns, leases, or rents a structure on which alterations or repairs are being or have been made.

(2) “Owner of a structure” may also include:

(a) An association of unit owners that files a claim related to the common elements of a condominium, as those phrases are defined in ORS 100.005.

(b) The following agents of persons described in section (1) of this rule:

(A) Property managers licensed under ORS Chapter 696; or

(B) A person who is acting on behalf of an incapacitated person, based on guardianship, power of attorney, or other legal representation.

Stat. Auth.: ORS 670.310 & ORS 701.235

Stats. Implemented: ORS 701.010 & ORS 701.225

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 10-2003(Temp), f. 9-29-03, cert. ef. 10-1-03 thru 3-27-04

812-003-0000

Licensing Generally

(1) A license and its identifying license number will be issued to one entity only. Other entities shall not be included in that license, but each shall be separately licensed and shall separately meet the licensing requirements. No entity may perform work subject to ORS Chapter 701 through the use of another entity’s license.

(2) The Board adopts the form “Independent Contractor Certification Statement” as approved October 24, 1989, as required by ORS 701.075(3).

(3) If an entity licensed as a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or joint venture seeks to change to another entity, the former license may be terminated. The new entity must license anew.

(4) All partners within a partnership shall be on record with the Construction Contractors Board. Partnerships consisting of spouses shall be treated the same as partnerships consisting of unrelated persons. License becomes invalid upon any change in the composition of that partnership.

(5) Each entity shall:

(a) List on its license application or renewal all assumed business names under which business as a contractor is conducted. All assumed business names listed shall be on record with the Corporation Division; and

(b) Provide evidence to the agency that the applicant’s responsible managing individual has completed the education required by ORS 701.280 as governed by Division 6 of these rules.

(c) List on its license application or renewal the Standard Industrial Classification (SIC) code number of its main construction activities.

(6) (a) A license card is valid for the term for which it is issued only if the following conditions are met throughout the license period:

(A) The surety bond remains in effect and undiminished by payment of Construction Contractors Board final orders; and

(B) The insurance required by ORS 701.105 remains in effect; and

(C) If the licensee is a sole proprietorship, survival of the sole proprietorship; or

(D) If the licensee is a partnership or limited liability partnership, no change in the composition of that partnership, by death or otherwise; or

(E) If the licensee is a corporation or limited liability company, survival of that corporation or limited liability company, including compliance with all applicable laws governing corporations or limited liability companies.

(b) If the licensee’s bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(c) An entity whose license has lapsed is considered unlicensed from the date the lapse occurred until the date the license is backdated and renewed, reissued, or reinstated. During a period of lapse, the entity shall not perform the work of a contractor.

(d) A period of lapse will end and the license previously issued will again become valid on the date upon which the agency receives the missing items that caused the lapse. This includes but is not limited to a new bond or a notice of reinstatement for the existing bond or on the effective date of a backdated bond or backdated reinstatement for the existing bond.

(e) If a license becomes invalid, the agency may require the return of the license and pocket card(s).

(7) No person shall advertise or otherwise hold out to the public that person’s services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, insured, or licensed unless that person holds a current, valid license.

(8) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS Chapter 701 prepared by a contractor or at

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the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS Chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) Except as set forth in sub paragraph (e) all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor's license number. This rule is effective upon filing for all contractors filing for new license, and is effective for all existing contractors when they purchase new business cards, business letterhead, and business signs for construction sites, or January 1, 1998, whichever date occurs sooner.

(e) Sub paragraph (d) does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(9) The initial two-year license fee for all license applications received on or after January 1, 1999, are as follows:

- (a) Residential-Only Contractor – \$190.
- (b) Limited Contractor – \$190.
- (c) All-Structures Contractor – \$225.
- (d) Inspector – \$190.
- (e) Licensed Developer – \$225.

(10) The two-year renewal fee for all license renewals with a renewal date of January 1, 1999, and after and all other license renewal applications received by the agency on or after January 1, 1999, are as follows:

- (a) Residential-Only Contractor – \$160,
- (b) Limited Contractor – \$160.
- (c) All-Structures Contractor – \$190.
- (d) Inspector – \$160.
- (e) Licensed Developer – \$225.

(11) The reinstatement fee is \$15 for Inspectors, Residential-Only and Limited Contractors, and is \$20 for All-Structures and Licensed Developer contractors.

(a) Except as set forth in (b), the reinstatement fee shall be charged for any renewal, reissue, or reinstatement received by the agency after the prior license expiration date.

(b) The agency may waive the reinstatement fee if:

(A) The properly-completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(B) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(12) A person licensed as a General Contractor – All-Structures may also perform the work of a Specialty Contractor – All-Structures. A person licensed as a General Contractor – Residential-Only may also perform the work of a Specialty Contractor – Residential-Only.

(13) A Limited Contractor may perform Specialty Contractor, General Contractor, residential, small commercial and large commercial construction work, so long as all of the following conditions are met:

(a) The licensee's annual gross business sales do not exceed \$40,000;

(b) The licensee does not enter into a contract in which the contract price exceeds \$5,000;

(c) If the contract price in a contract for work performed by the licensee is based on time and materials, the amount charged by the licensee shall not exceed \$5,000;

(d) The licensee consents to inspection by the Construction Contractors Board of its Oregon Department of Revenue tax records to verify compliance with subsection (a).

(e) For purposes of this section, "contract" includes a series of agreements between the licensee and a person for work on any single work site within a one-year period.

(14) An Inspector may perform inspections, but may not construct, alter, repair, add to, subtract from, improve, move, wreck or demolish for another, any building, highway, road, railroad, excavation or other structure, project, development or improvement attached to real estate or do any part thereof, or act as a contractor performing construction management on a project that involves any of these activities.

(15) The following surety bond amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the bond amount required is as follows:

- (A) General Contractor – All Structures – \$10,000.
- (B) General Contractor – Residential – \$10,000.
- (C) Specialty Contractor – All Structures – \$5,000.

(D) Specialty Contractor – Residential – \$5,000.

(E) Limited Contractor – \$2,000.

(b) As required by ORS 701.085 as amended by chapter 325, 1999 Session Laws, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the bond amount required is as follows:

(A) General Contractor – All Structures – \$15,000.

(B) General Contractor – Residential – \$15,000.

(C) Specialty Contractor – All Structures – \$10,000.

(D) Specialty Contractor – Residential – \$10,000.

(E) Limited Contractor – \$5,000.

(F) Inspector – \$10,000.

(G) Licensed Developer – \$15,000.

(c) A contractor may obtain or maintain a bond in an amount that exceeds the amount required under subsection (b) of this section if the bond obtained or maintained is in an amount that is equal to an amount required under subsection (b) of this section.

(16) The following general liability insurance amounts are required:

(a) For those applicants applying for a new license or reissue prior to July 1, 1999, and for those applicants applying for renewal prior to August 1, 1999, the following general liability insurance amount is required as follows:

(A) General Contractor – All Structures – \$500,000.

(B) General Contractor – Residential – \$100,000.

(C) Specialty Contractor – All Structures – \$500,000.

(D) Specialty Contractor – Residential – \$100,000.

(E) Limited Contractor – \$100,000.

(b) As required by ORS 701.105, for those applicants applying for a new license or reissue on or after July 1, 1999, and for those applicants applying for renewal on or after August 1, 1999, or with an expiration date of August 1, 1999, or later the following general liability insurance amount is required as follows:

(A) General Contractor – All Structures – \$500,000.

(B) General Contractor – Residential – \$500,000.

(C) Specialty Contractor – All Structures – \$500,000.

(D) Specialty Contractor – Residential – \$300,000.

(E) Limited Contractor – \$100,000.

(F) Inspector – \$300,000.

(G) Licensed Developer – \$500,000.

(17) A fee of \$20 shall be charged for any changed license category.

(18) On all construction projects regulated under the state Prevailing Wage Law, ORS 279.348 to 279.365 or the Davis Bacon Act and related acts, 40 USC 276a, the primary contractor shall provide the list of subcontractors required by ORS 701.055(11) to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries, 800 NE Oregon #32, Portland, OR 97232.

(a) The initial list of subcontractors will be submitted to the contracting public agency and to the Wage and Hour Division of the Bureau of Labor and Industries on the same date that the initial Payroll and Certified Statement form (WH-38) is due. Instructions for submitting form WH-38 are contained in OAR 839-016-0010.

(b) The primary contractor will prepare and submit updated lists of subcontractors with each submittal of the Payroll and Certified Statement form (WH-38).

(19) A contractor shall not engage in dishonest or fraudulent conduct injurious to the welfare of the public.

(20) A contractor shall cooperate fully with any investigation undertaken by the Board pursuant to ORS 701.225.

[ED. NOTE: Forms & Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310, 701.235, 701.280, 701.992 & 183.310-183.500

Stats. Implemented: ORS 701.055, 701.075, 701.102, 701.125 & 701.280

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 2-1982, f. 4-1-82, ef. 7-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0010; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; BB 1-1987, f. & ef. 3-5-87; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 8-1992(Temp), f. & cert. ef. 12-4-92; CCB 1-1993, f. & cert. ef. 2-1-93; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 4-1996, f. 11-7-96, cert. ef. 11-8-96; CCB 5-1996, f. 11-25-96, cert. ef. 11-27-96; CCB 7-1996, f. & cert. ef. 12-11-96; CCB 2-1997, f. 7-7-97, cert. ef. 7-8-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef.

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1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 5-2003, f. 6-3-03, cert. ef. 10-1-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 8-2003, f. 8-8-03 cert. ef. 1-1-04; CCB 9-2003, f. 9-29-03, cert. ef. 1-1-04; CCB 10-2003(Temp), f. 9-29-03, cert. ef. 10-1-03 thru 3-27-04

812-003-0020

Bonds

(1) A "properly executed bond" must be signed by an authorized agent of the surety or by one having power of attorney; must bear a bond number; and must be filed within the time stated on the bond. Additionally, the agency may require the licensee and surety to use the most recent revision of the surety bond form.

(2) The surety bond's effective date is the date on which the licensee has first met all requirements for licensing or renewal. The bond shall be continuous. The surety will be responsible for ascertaining the bond's effective date.

(3) A surety bond may be cancelled only after the surety has given 30 days' notice to the agency. Cancellation will be effective 30 days after receipt of the cancellation notice. The bond shall cover final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

(4) The name of the entity as it appears on the bond must be the same as the name on the application:

(a) If the entity is a sole proprietorship, the bond must include the name of the owner;

(b) If the entity is a partnership, the bond must include the names of all partners (except limited partners) and any business name(s) used;

(c) If the entity is a limited liability partnership, the bond must be issued in the name of all partners and the name of the limited liability partnership;

(d) If the entity is a corporation, the bond must be issued showing the corporate name; or

(e) If the entity is a limited liability company, the bond must be issued in the name of the limited liability company; or

(f) The inclusion or exclusion of business name(s) on a bond shall not limit the liability of an entity. Claims against a licensed and bonded entity will be processed regardless of business names used by such entity.

(5) If at any time an entity amends, deletes, or adds a business name(s) the agency must be notified within 30 days of the date of the change.

(6) If an entity licenses as a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability company, and seeks to change the licensed entity to one of the other types, the application must be accompanied by a new bond. Riders to existing bonds changing the type of entity bonded will be construed as a cancellation of the bond and will not be otherwise accepted.

(7) Bond documents received at the agency office via electronic facsimile shall be accepted as original documents. The surety shall provide the original bond document to the agency upon request.

(8) In accordance with ORS 701.085(7), the agency may require an applicant (any person applying to renew or reinstate his/her license or applying for a new license), to file a bond of up to five times the normally required amount (up to \$75,000 for a General Contractor or Licensed Developer, \$50,000 for a Specialty Contractor or Inspector, or \$25,000 for a Limited Contractor) or licensee, if it determines that an applicant, or a previous license of a corporate officer, owner, member or partner of a current applicant or licensee, has:

(a) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance; or

(b) Three or more open owner claims filed on three or more different structures by three or more different owner claimants; or

(c) Five or more claims open at one time.

(9) A properly executed bond shall include the following:

(a) "NOW THEREFORE, the conditions of the foregoing obligation are that if said principal with regard to all work done by the principal as a "contractor" as defined by ORS 701.005, shall pay all amounts that may be ordered by the Construction Contractors Board against the principal by reason of negligent or improper work or breach of contract in performing any of said work, in accordance with ORS Chapter 701 and OAR Chapter 812, then this obligation shall be void; otherwise to remain in full force and effect.

(b) This bond is for the exclusive purpose of payment of final orders of the Construction Contractors Board in accordance with ORS Chapter 701. This bond shall be one continuing obligation, and the liability of the

surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the amount of the penalty of this bond.

(c) This bond shall become effective on the date the principal meets all requirements for licensing or renewal and shall continuously remain in effect until depleted by claims paid under ORS chapter 701, unless the surety sooner cancels the bond. This bond may be canceled by the surety and the surety be relieved of further liability for work performed on contracts entered after cancellation by giving 30 days' written notice to the principal and the Construction Contractors Board of the State of Oregon. Cancellation shall not limit the responsibility of the surety for final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

(d) This bond shall not be valid for purposes of licensing in accordance with ORS Chapter 701 unless filed with the Construction Contractors Board within sixty (60) days of the date shown below."

(10) If a claim is filed against a licensee for work done during the work period of a contract entered while the security required under ORS 701.085 is in effect, the security shall be held until final disposition of the claim.

(11) Any contractor licensed as of November 7, 1997, who maintains a license in accordance with this chapter shall be in compliance with this rule until the renewal of the contractor's license. At that time, the contractor shall provide a continuous bond that is in compliance with this rule.

(12) This rule permits sureties to file a single rider to amend their present bonds on file with the Construction Contractors Board.

(a) The rider shall be received by the Board prior to November 14, 1997, and shall specify that bonds on file as of January 1, 1998, shall be read to include the new bond conditions as follows:

(A) This rider converts all existing bond forms to continuous until canceled bond forms as required by OAR 812-003-0020. All bonds shall remain in force continuously unless the surety gives written notice to the Construction Contractors Board of its intent to cancel the bond. The bonds shall cover final orders relating to work performed during the work period of a contract entered into prior to the cancellation.

(B) These bonds may be canceled by the surety and the surety relieved of further liability for work performed on contracts entered into after cancellation by giving thirty (30) days' written notice to the principal and the Construction Contractors Board.

(C) To the extent that the language of the exiting bonds being converted may vary from the new language, the new language will be controlling.

(b) This rule shall be liberally construed to effect its purpose of making a practical transition to the new bond form. Nothing in this rule shall be construed to increase the bond amount without a separate increase rider.

(c) Sureties that elect to file a rider shall also file a certificate that the bond principals have been advised of the intended election by the surety.

Stat. Auth.: ORS 701.105, ORS 701.235

Stats. Implemented: ORS 701.085, ORS 701.105

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0030; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 4-1984, f. & ef. 8-16-84; 1BB 6-1984(Temp), f. & ef. 9-18-84; 1BB 3-1985, f. & ef. 4-25-85; BB 2-1987, f. & ef. 7-2-87; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1989(Temp), f. 12-29-89, cert. ef. 1-1-90; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 2-1996, f. & cert. ef. 6-18-96; CCB 5-1997(Temp), f. & cert. ef. 11-7-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 3-2001(Temp), f. & cert. ef. 4-19-01 thru 10-15-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 10-2003(Temp), f. 9-29-03, cert. ef. 10-1-03 thru 3-27-04

812-003-0025

Renewal and Reissue of License

(1) A license may be renewed or reissued upon:

(a) The applicant's completion of the renewal form or application form prescribed by the agency; and

(b) Payment of the fee or fees, and

(c) Receipt of the required certification of insurance coverage, and

(d) A non-cancelled bond on file. If it appears to the agency that the required surety bond has been cancelled, the applicant shall submit a reinstatement from the surety on the cancelled bond or a new, original, continuous until cancelled surety bond.

(2) Licensees shall submit a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' com-

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pensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee.

(3) A licensee may qualify for Limited Contractor license and reduce the bond to \$5,000 upon certification that the licensee will not enter into contracts that exceed \$5,000, that the licensee's gross business sales of work subject to ORS chapter 701 was less than \$40,000 in the previous twelve months, is expected to be less than \$40,000 during the next twelve months, and that the licensee agrees that if the licensee's gross construction business volume exceeds \$40,000 during the coming year the licensee will immediately increase the bond amount to \$10,000 or \$15,000, and increase the insurance coverage if necessary, to meet the requirements of the appropriate license category. The reduced bond may be accomplished by submission of a decrease rider to an existing bond or the submission of a new bond. The effective date on either the decrease rider or the new bond must be the license renewal date or after. In addition, the agency may refuse to authorize a reduced amount until any pending claim(s) against the licensee are resolved.

(4) If a licensee provides a decrease rider to an existing bond in accordance with this rule prior to the license renewal date, the agency will determine the effective date to be the date of renewal or reissue.

(5) The effective date of renewal shall be the previous license expiration date when:

(a) All requirements for renewal are met prior to the previous license expiration date; or

(b) All requirements for renewal, including submission of either a valid continuous until canceled bond or back-dated new bond, certification of insurance coverage, and payment of renewal fee plus reinstatement fee, are met, providing the contractor applies for renewal not more than one year after the license lapses.

(6) If the contractor applies for renewal more than one year after the license lapses, the effective date of reissue shall be the date all requirements for licensing, including, but not limited to, submission of a newly issued continuous until canceled bond or reinstatement of an existing continuous until canceled bond, certification of insurance coverage and payment of new license fee.

(7) For liens perfected and claims commenced on or after January 1, 1998:

(a) The time period under ORS 701.065(2)(a)(A) and 701.065(2)(c)(B) (2003 Laws) for a completed application for license to be submitted to the Board is 90 calendar days from the date the contractor became aware of the requirement that the contractor be licensed;

(b) The time period under ORS 701.065(2)(b)(A) for a completed application for license renewal to be submitted to the Board is 90 calendar days from the date the contractor became aware of a lapse in license.

Stat. Auth.: ORS 670.310, 701.235, 701.280, 701.992 & 183.310 - 183.500
Stats. Implemented: ORS 701.065, ORS 701.102 & ORS 701.115
Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1980(Temp), f. 6-2-80, ef. 7-1-80; 1BB 4-1980, f. & ef. 7-14-80; 1BB 5-1980, f. & ef. 10-7-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0035; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 4-1984, f. & ef. 8-16-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 4-1995, f. & cert. ef. 10-5-96; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-1999, f. 9-10-99, cert. ef. 11-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 10-2003(Temp), f. 9-29-03, cert. ef. 10-1-03 thru 3-27-04

Department of Administrative Services
Chapter 125

Adm. Order No.: DAS 5-2003(Temp)
Filed with Sec. of State: 10-1-2003
Certified to be Effective: 10-1-03 thru 3-28-04
Notice Publication Date:

Rules Amended: 125-020-0610

Subject: Under ORS 180.235, the Oregon Attorney General may authorize a public officer or agency to retain its own general or special counsel, other than the Department of Justice. This Temporary Rule governs the process, together with the OAR division 20 rules and with exceptions OAR 125-020-0210, OAR 125-020-0220, OAR 125-020-0300, OAR 125-020-0310, OAR 125-020-0320, OAR 125-020-0330, OAR 125-020-0335, OAR 125-020-0340, OAR 125-020-

0520 (3) (6) and (7), and OAR 125-020-0530. This Temporary Rules is effective until March 28, 2004, or a permanent rule has been filed.
Rules Coordinator: Mary Unger—(503) 378-2349, ext. 320

125-020-0610 Exemptions

(1) This rule exempts Contracting Agencies, for certain classes of contracts, from the screening and selection rules only as described in OAR 125-020-0300 through 125-020-0335. The Contracting Agency shall competitively solicit to the extent practicable or justify entering into the contracts by direct negotiation. When the contract requires payments of more than \$75,000, this rule does not exempt the Contracting Agency from obtaining the approval of the Attorney General for legal sufficiency pursuant to ORS 291.045-047. This exemption applies to the following classes of contracts:

(a) Client services, as defined in OAR 125-020-0140(3);

(b) Expert witness services, as defined in OAR 125-020-0140(14);

(c) Year 2000 services, as defined in OAR 125-020-0140(26);

(d) Business assistance services, defined as services delivered directly to small or troubled businesses in Oregon, that are intended to assist business start-up or growth or to revitalize or stabilize a business. Such services include, but are not limited to, technical assistance services, feasibility evaluations, management consulting, basic business training (including elements of accounting, personnel management, marketing and tax compliance), counseling on business needs and problems, assistance in securing state or federal procurement contracts and assistance in securing Oregon suppliers for goods and services.

(2) The Division totally exempts the following types of Personal Services agreements: Federal Government, Interagency, Intergovernmental, Interstate and International. This exemption exempts the Contracting Agency from all requirements of ORS 279.712(3) and these division 020 rules and allows the Contracting Agency to enter into such agreements by direct negotiation without Division approval.

(3) Upon an Agency's written request, the Division may exempt a contract for Personal Services or class of contracts for Personal Services from any requirements of ORS 279.712(3) upon the following findings:

(a) It is unlikely that such exemption will encourage favoritism in the awarding of Personal Services Contracts or substantially diminish competition for these contracts; and

(b) The awarding of Personal Services Contracts pursuant to the exemption will result in substantial cost savings to the Agency. In making such findings, the Division may consider the type, cost, amount of the contract, number of persons available and any other factors the Division deems appropriate.

(4) The Division may revoke the Contracting Agency's exempted authority by written letter to the Agency.

(5) The Agency shall maintain copies of letters granting exempted authority.

(6) The Contracting Agency is required to:

(a) Follow all applicable rules except to the extent exempted by this rule;

(b) Prepare the contract;

(c) Assign an Agency number to the contract;

(d) Obtain all required approvals; and

(e) Maintain records as required by state laws and OAR 125-020-0510.

(7) Copies of these contracts are not filed with the Division; however, exempted contract data must be reported to the Division each fiscal year for inclusion in the Division's report to the Legislature.

(8) Screening and Selection Procedures for General or Special Counsel Authorized by the Attorney General.

(a) Under ORS 180.235 the Oregon Attorney General may authorize a public officer or agency to retain its own general or special counsel other than the Department of Justice. This rule governs the process for obtaining such counsel, together with the division 20 rules with the exceptions of: OAR 125-020-0210, 125-020-0220, 125-020-0300, 125-020-0310, 125-020-0320, 125-020-0330, 125-020-0335, 125-020-0340, 125-020-0520(3), (6) and (7), and 125-020-0530.

(b) Definitions. For purposes of this sub-section (8), these terms have the following meanings:

(A) "Attorney General" means the Attorney General of the State of Oregon.

(B) "Authorized Agency" means the public officer or agency that the Attorney General authorized to retain its own general or special counsel other than the Department of Justice under ORS 180.235.

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(C) "Authorized Legal Services" means the legal services as authorized by the Attorney General for the particular matter or class of matters and as required by the Authorized Agency.

(D) "Outside Counsel" means general or special counsel selected by the Authorized Agency under this rule.

(E) "Firm" means the proprietorship, partnership or professional legal corporation engaged in the practice of law of which Outside Counsel is a partner, a shareholder, an associate, a member, or a lawyer serving as "of counsel."

(F) "Solicitation" means a written or oral request for offers, proposals, statements of qualifications, or other information from individuals or entities.

(c) Delegation of Approval and Contract Authority. The Division delegates approval and contract authority to the Authorized Agency to the extent authorized by the Oregon Attorney General.

(d) Selection Criteria:

(A) The Authorized Agency shall select the Firm it considers most advantageous based on the following factors:

(i) The knowledge, skills and ability of the Firm that will provide Authorized Legal Services. The Firm's ability to provide Authorized Legal Services includes the training and expertise of the Firm attorneys, including Outside Counsel. Outside Counsel must be a member of the Oregon State Bar pursuant to ORS 180.235(2);

(ii) The Firm's experience, level of expertise and suitability to perform the Authorized Legal Services;

(iii) Whether the Firm's available personnel possess any required licenses or certifications required to perform the legal services for the Authorized Legal Services, such as licenses to practice law in the appropriate jurisdiction, or to appear in a certain forum;

(iv) The Outside Counsel's availability and capability to perform the Authorized Legal Services and meet the Agency's needs;

(v) The commitment the Outside Counsel and Counsel's Firm can make to the Authorized Agency to meet the Agency's needs;

(vi) The value of the Firm's legal services, taking into account the cost of the Firm's legal services; and

(vii) Other factors the Authorized Agency considers relevant to accomplish an optimal, timely outcome.

(B) In weighing the evaluation factors, no single factor is determinative.

(e) Scope of Firms Considered. The Solicitation process may range from direct negotiation and contracting with a single firm to publication of a request for proposals. The Authorized Agency shall extend Solicitations to those firms that it considers reasonable and practical to solicit under the circumstances, and shall take into consideration the following factors:

(A) When the subject matter of the Authorized Legal Services requires specialized knowledge in a particular field of law, the Authorized Agency may limit the Solicitation to prospective Firms that have a reputation of subject matter expertise in that field of law;

(B) The Authorized Agency shall limit the number of Firms considered under the Solicitation as appropriate if the interests of the Authorized Agency would likely be adversely affected by delay in obtaining a Firm or through broad distribution of the Solicitation; and

(C) Other factors the Authorized Agency considers relevant to accomplish an optimal, timely outcome.

(f) Documentation of Selection:

(A) The Authorized Agency shall prepare a record of selection signed by an officer or an employee of the Authorized Agency designated to be responsible for the selection process. The record of selection shall include the officer's or employee's summary of:

(i) The Solicitation process used and the Firms considered in the Solicitation process;

(ii) Why the selected firm is considered most advantageous to the Authorized Agency; and

(iii) Why the scope of the Solicitation was reasonable and practical under the circumstances.

(B) As used in (f)(A) above, an officer includes a member of the Authorized Agency's board or commission.

(C) The record of solicitation shall be retained by the Authorized Agency with the contract file for the Firm.

Stat. Auth.: ORS 184.305, ORS 184.340 & ORS 279.712
Stats. Implemented: ORS 180.235, ORS 279.712

Hist.: BMD 1-1992, f. & cert. ef. 1-6-92; TPPSD 3-1994, f. 12-30-94, cert. ef. 2-1-95; Renumbered from 122-020-0018 and 122-020-0028; DASII 1-1997, f. & cert. ef. 1-6-97; Suspended by DASII 7-1997(Temp), f. 10-3-97, cert. ef. 10-4-97; DAS 3-1998, f. & cert. ef. 4-1-98; DAS 3-1999(Temp), f. 7-23-99, cert. ef. 7-26-99 thru 1-21-00; DAS 5-2002(Temp), f. 8-22-02, cert. ef. 8-23-02 thru 2-19-03; DAS 1-2003, f. & cert. ef. 2-24-03, DAS 5-2003(Temp), f. & cert. ef. 10-1-03 thru 3-28-04

Department of Administrative Services, Budget and Management Division Chapter 122

Adm. Order No.: BMD 4-2003(Temp)

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 9-24-03 thru 3-22-04

Notice Publication Date:

Rules Adopted: 122-070-0065

Rules Amended: 122-070-0000, 122-070-0010, 122-070-0030, 122-070-0060, 122-070-0070, 122-070-0080

Subject: Adopt OAR 122-070-0065 to clarify needs in managing tax-exempt bond proceeds to insure compliance with all federal tax code requirements to maintain tax-exempt under federal law.

Amend the other rules to include current programs administered by the Capital Investment Section, correct for changes in the requirements associated with Oregon tax-exempt debt and adjustment fees for debt issuance that have not changed since 1996.

Rules Coordinator: Mary Unger—(503) 378-2349, ext. 320

122-070-0000

Authority

(1) The Director of the Department of Administrative Services is authorized by ORS 283.085 to 283.092 to enter into financing agreements to acquire real property or personal property for state agencies. ORS 283.060 authorizes the Department of Administrative Services, with the approval of the Governor, to make reasonable rules and regulations that are necessary or proper for the administration of the law that the Department is charged with administering.

(2) Lottery bond financings are authorized by ORS 286.580 and are to be issued by the State Treasurer with the concurrence of the Director of the Department of Administrative Services.

(3) The State of Oregon acting through the Oregon State Treasurer is authorized by ORS 288.165 to issue and borrow money by entering into a credit agreement, or issuing notes, warrants, short-term promissory notes, commercial paper or other obligations in anticipation of taxes, grants or other revenues. Department of Administrative Services shall account for and administer the proceeds of the obligations and the repayment of the obligations.

(4) The Director of the Oregon Department of Administrative Services ORS 353.559 Sec. 18, as directed by the State Treasurer, may issue general obligation bonds, obtain credit enhancement to provide additional security or liquidity for general obligation bonds, enter into security documents with a bond trustee, establish one or more debt service reserve accounts for the purpose of paying bond debt service, to pay any costs and expenses of issuing or administering the general obligation bonds, and establish a process to allow for repayment of the bonds with proceeds under the Master Settlement Agreement by any of the United States tobacco products manufacturers as directed by the Legislative Assembly or other sources of funds identified as the source of repayment.

(5) The Department of Administrative Services shall develop the cash flow forecast, account for the proceeds, pay all issuance costs ORS 310.140 (actual costs) and administer the repayment of Short Term Borrowings ORS 293 as amended by Senate Bill 1002 71st Legislative Assembly – 2002 Special Session. Short Term Borrowings are also known as tax anticipation notes (TAN's)

(6) Oregon Appropriation Bonds are authorized, ORS 293.537 as amended by SB 856 of the 72nd Oregon Legislative Assembly in regular session, to be issued by the State Treasurer with the concurrence of the Director of the Department of Administrative Services.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96; Renumbered from 125-023-0000; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0010

Definition of Financing Agreements

(1) ORS 283.085(4) defines a financing agreement as: A lease purchase agreement, an installment sale agreement, a loan agreement, or any other agreement to finance real or personal property which is or will be owned and operated by the state or any of its agencies.

(2) Distinguishing between a financing agreement and an operating lease:

(a) The transaction is a financing agreement if it meets one of the following criteria:

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(A) The agreement transfers ownership of property to the state or any of its agencies when the agreement ends;

(B) The agreement contains a nominal or bargain purchase option. A nominal or bargain purchase is a price less than fair market value at the time of purchase;

(C) The term of the agreement is 75% or more of the economic useful life of the property;

(D) The present value of the minimum payments under the agreement is at least 90% of the current fair market value of the property. Minimum agreement payments include any penalty for terminating the agreement.

(b) Operating leases are not subject to ORS 283.085 – 283.092.

(3) Characteristics of various forms of financing agreements:

(a) Certificates of Participation (COPS) are a form of financing agreement characterized by the following features:

(A) Each certificate represents an ownership interest in and a right to receive (1) a portion of the principal component of the loan payments to be paid by the State pursuant to the terms of the loan agreement and (2) a portion of the interest component of the loan payment.

(B) The State's obligation to make loan payments is subject to legislative appropriation.

(C) Originally offered and sold widely on the regional and national municipal security markets;

(D) Actively sold and resold throughout their life on the municipal securities market;

(E) Involves an independent, third party trustee to execute the terms of the COP financing agreement;

(F) Rated by a nationally recognized credit analysis corporation.

(b) Privately placed financing agreements are another form characterized by the following features:

(A) Offered to a select number of sophisticated investors or investment institutions;

(B) Not usually rated by a credit analysis corporation.

(c) Vendor or Owner financing is another form characterized by the following features:

(A) Agreement between the state or any of its agencies and the existing owner, manufacturer or retailer to pay for a product purchased over time;

(B) Not rated by a credit analysis corporation.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0010; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0030

All Financing Agreements Whose Principal Portion Exceeds \$100,000 Are to Be Executed in Name of the Department of Administrative Services Director

(1) The Director of the Department of Administrative Services (Director) is the only party with the authority to enter into financing agreements under ORS 283.087 to 283.092.

(2) In cases of financing agreements approved in writing by the Treasury and the Department of Administrative Services to acquire equipment being procured through the Department of Administrative Services, Procurement, Fleet and Surplus Services Division in accordance with ORS Chapter 279, the Director's approval of the financing agreement will serve as direction to the Procurement, Fleet and Surplus Services Division Administrator to sign the financing agreement under the Director's authority.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0030; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0060

Management of All COP Funds

(1) The Department of Administrative Services will be responsible for managing the investments of all COP funds in coordination with the State Treasurer.

(2) Records of COP fund balances and interest earnings:

(a) The Department of Administrative Services will retain records of all transactions related to COPS;

(b) The Department of Administrative Services will calculate the reasonable distribution of interest earnings on a single financing agreement account which funds independent projects of separate departments or agencies;

(c) The Department of Administrative Services will report, to agencies participating in COP funds, the account interest earnings and account balances at the close of every fiscal year.

(3) COP payment from agencies:

(a) All departments or agencies with projects funded by outstanding COP series will make repayment of principal and interest as prescribed in the respective interagency agreement with the Department of Administrative Services;

(b) COP payments will be a fixed amount for a semi-annual cycle:

(A) The Trustee in accordance with the terms of Trust agreements between the Department of Administrative Services and Trustee, will accumulate COP payments;

(B) The Trustee will invest payments. Earnings will be credited to the respective departments or agency's payment account;

(C) At the end of every payment cycle the interest earnings on payments accumulated during the cycle will be credited against the COP interest due the next cycle;

(D) When the end of a payment cycle marks the end of the entire COP obligation, any accumulated interest earnings remaining after all obligations are paid will be provided to the department or agency.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0060; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0065

Management of All Bond and Note Proceeds

(1) All costs incurred by the Department of Administrative Services and State Treasurer in the prudent management efforts of outstanding general obligation, revenue bond or note proceeds will be charged to the department or agency served by the bonds.

(2) All project proceeds will be held in designated accounts at the Oregon State Treasury. The agency and the Department of Administrative Services shall cooperate to record the expenditure of the bond proceeds for all legal expenditures and to comply with the provisions of the Internal Revenue Code and regulations.

(3) Any reserve account equal to the maximum allowable reserve authorized in federal tax code at the time the bonds are issued shall be held by an independent Trustee. Interest earnings on the reserve shall be used to pay debt service on the related bonds after the payment of any arbitrage earnings payable under federal tax code, when due.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 286.560

Hist.: BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0070

Trustee and Fiscal Agent Charges

(1) Annual charges for Fiscal Agent services and Trustee services for any of the bond, COP or note programs administered by the Department will be passed through to the department or agency served by the respective bond, COP or note series or portions of a series.

(2) All other costs incurred by the Department of Administrative Services in the prudent management efforts of outstanding financing agreements will be charged to the department or agency served by the respective financing agreement.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0070; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

122-070-0080

Fees

(1) ORS 283.089(8) permits the Department of Administrative Services to bill every state agency benefiting from the use of financing agreements, for the costs incurred in preparing and executing them. Those costs include but are not limited to:

(a) Underwriting costs;

(b) Finance agreement repayment insurance;

(c) State Treasury, Auditor, Bond Counsel, Financial Consultant, and Attorney General fees;

(d) Credit rating charges, official statement printing costs.

(e) Federal tax code compliance calculations and documentation.

(2) Schedule of the Department of Administrative Services' charges:

(a) New issues of financing agreements:

(A) Vendor financing or third party financing of equipment acquisitions will be processed by the Department of Administrative Services and will be charged a fee of \$500;

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(B) Owner financing agreements providing for the acquisition of real property will be charged a fee of \$1,000;

(C) Third party financing agreements provided by private parties to finance real property purchases will be charged a fee of \$4,000;

(D) Public sale of all bond, certificate and note issuance including but not limited to Certificates of Participation (COP), Lottery Revenue Bonds, Appropriation Bonds, tax anticipation notes and Oregon Opportunity General Obligation bonds will be charged as follows:

(i) Single project financing will be charged \$18,500;

(ii) A single financing, funding more than one project will be charged \$25,000. The charge will be prorated among the projects financed;

(iii) If more than one financing is sold in a combined offering the charge will be \$15,000 per issue.

(b) Advance refunding of outstanding series will be charged \$15,000 per series.

(c) Annual calculations of arbitrage liability for statewide financial reporting and each five year reporting period will be reimbursed as follows:

(A) If the calculation and documentation is performed by the Department of Administrative Services, Budget and Management Division, Capital Investment Section (CIS):

(i) Each bond series with a single beneficiary agency that has project money unspent or a bond funded reserve will be charged \$1,000 annually each August when CIS provides the calculation to the agency of the estimate of arbitrage liability.

(ii) Each bond series with multiple beneficiary agencies that has project money unspent or a bond funded reserve will be charged \$500 annually each August when CIS provides the calculation to the agency of the estimate of arbitrage liability. If the calculation and documentation is performed by a private contractor under a professional service contract with CIS, the agency will reimburse CIS for the costs of the service performed. Agencies will reimburse CIS for the direct cost of any work performed by CIS bond counsel related to federal tax code compliance requirements.

Stat. Auth.: ORS 184.340

Stats. Implemented: ORS 283.085 - ORS 283.092

Hist.: GS 15-1992, f. & cert. ef. 7-24-92; BMD 1-1996, f. 4-11-96, cert. ef. 4-15-96, Renumbered from 125-023-0080; BMD 4-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

Department of Administrative Services, Human Resource Services Division Chapter 105

Adm. Order No.: HRSD 21-2003(Temp)

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03 thru 12-19-03

Notice Publication Date:

Rules Amended: 105-040-0030

Subject: 105-040-0030 (I) Language was added to ensure system programming is consistent with other HRSD OARs and State Policies as it relates to the use of salary range versus salary rate in determining when to remove an applicant's name from various applicant lists. The need to add this language immediately is to authorize and support a system change that will ensure that as agencies daily disposition applicants from applicant lists they are not incorrectly removing applicants from other recruitment lists.

Rules Coordinator: Mary Unger—(503) 378-2349, ext. 320

105-040-0030

Use of Applicant Lists

Applicability: Classified unrepresented and management service positions, and initial appointment to all classified positions. Not applicable to represented positions where in conflict with a collective bargaining agreement.

(1) It is the policy of the State of Oregon to establish and maintain lists of qualified applicants to facilitate a selection process based upon required knowledge and skills.

(a) The order in which applicant lists are to be used shall be in accordance with Administrative Rule 105-040-0020, Types and Order of Applicant Lists, or as specified in collective bargaining agreements.

(b) Lists of eligibles necessary to provide an adequate number of qualified candidates shall, except for agency layoff or agency informational lists, be established and maintained on the Division's central system.

(c) When a vacant position is to be filled, an appointing authority, when appropriate, shall request a list of qualified applicants and receive a "certificate of eligibles" prior to conducting interviews.

(d) The certificate of eligibles shall be issued in one of the following formats, whichever is applicable:

(A) All applicants listed in rank order from the highest to lowest score;

(B) All applicants who meet the minimum qualifications for the position;

(C) A limited number of applicants selected at random from a list of all applicants who meet the minimum qualifications for the position.

(e) When a certificate of eligibles is issued in rank order from the highest to lowest score, applicants for interviews shall be selected in that same order. When certificates issued contain tied scores, all applicants with that score shall be offered an interview if one applicant with that score is interviewed.

(f) When a certificate of eligibles is issued for all applicants who meet the minimum qualifications for the position or for a limited number of applicants selected at random from such a list, all applicants shall be interviewed unless a valid screening process is developed and documented to select only the most qualified candidates for interview. If not all qualified applicants are to be interviewed, the job announcement shall inform applicants of the selection process being used. If the selection process includes ranking applicants using a numerical score or any other method of ranking applicants that does not result in a score, veterans' preference points shall be added, where applicable, at the time of ranking.

(g) When a certificate of eligibles is issued for a limited number of applicants selected at random from a longer list of all qualified candidates and the agency has not met its affirmative action goals, the certificate may include the same proportion of protected class candidates as the list of all qualified candidates. An appointing authority may supplement a randomly selected certificate of eligibles in the following manner:

(A) When a random certificate is requested to fill a vacant position for which there is an existing temporary appointment, an appointing authority may interview the temporary employee, or all temporary employees in the agency or work unit, in addition to the candidates listed on the randomly selected certificate of eligibles, provided that the temporary employee is included in the list of all qualified candidates and is performing the same duties of the vacant position.

(B) A randomly selected certificate of eligibles may be supplemented with the names of all qualified candidates who are clients of the Department of Human Services or Juvenile Justice Division programs described under OAR 105-040-0060, Limited-Competitive and Non-competitive Appointments.

(h) The number of candidates on the certificate of eligibles shall be determined by the appointing authority. However, all names with the same score, where scores are used, shall be included.

(i) A related applicant list of a classification having similar knowledge and skills may be used. However, applicants must meet the minimum qualifications for the position being filled.

(j) New and existing applicant lists may be consolidated, as necessary, provided minimum qualifications and the exam requirements are the same.

(k) Except for the expiration of the term of eligibility on an applicant list, any person whose name is removed from a list shall be promptly notified by the Administrator or delegated agency appointing authority of the reason for such removal.

(l) Appointment to a classification from an applicant list will automatically inactivate the applicant from all applicant lists for classifications that:

(A) have a top step salary rate equal to or less than the appointed classification top step salary rate; and

(B) have a salary range number equal to or less than the appointed classification salary range number.

(m) The Administrator or delegated agency may remove a name from an applicant list for reasons including, but not limited to the following:

(A) Failure to respond within a reasonable time period to any inquiry to availability for appointment;

(B) Expiration of the term of eligibility on the list;

(C) Willful violation of these rules or policies, or provisions of the law;

(D) Falsifying statements on the application;

(E) Failure to pass required and job related criminal record or driving record checks;

(F) Cancellation of a list;

(G) Appointment made from a lay-off list to any classification;

(n) A disposition code shall be reported for each candidate appearing on the certificate of eligibles who was invited to interview.

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(2) A certificate of eligibles is a list of candidates certified to a position, as a result of submitting of an application and meeting the minimum qualifications on the job announcement, passing the exam, where applicable, and were included in the number requested by the agency.

(3) A disposition code is a standardized code assigned by an appointing authority or designee to an applicant on a Certificate. The code identifies the action taken and if their name is inactivated or removed from the List. Documentation retention requirements are outlined under HRSD State Policy 40.010.01, Recruitment and Selection Record Retention.

(4) A protected class candidate is a female or person of color in one of the following groups:

(a) Asian or Pacific Islander: Persons having origins in any of the peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, The Philippine Islands and Samoa.

(b) African American (not of Hispanic origin): Persons having origins in any of the black ethnic groups.

(c) Hispanic: Persons having origins in any of the Mexican, Puerto Rican, Cuban, Central or South American or other Spanish cultures, regardless of ethnicity.

(d) Native American or Alaskan Native: Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

(5) "Affirmative action goals" means those goals established in the state's Affirmative Action Plan.

Stat. Auth.: ORS 184.340 & ORS 240.145

Stats. Implemented: ORS 240.010 & ORS 240.306

Hist.: PD 2-1994, f. & cert. ef. 8-1-94; PD 3-1995, f. & cert. ef. 11-3-95; HRSD 1-2000, f. 1-28-00 cert. ef. 2-1-00; HRSD 14-2003, f. 7-15-03, cert. ef. 7-21-03; HSRD 21-2003(Temp), f. & cert. ef. 9-23-03 thru 12-19-03

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Department of Agriculture
Chapter 603

Adm. Order No.: DOA 33-2003

Filed with Sec. of State: 9-18-2003

Certified to be Effective: 9-18-03

Notice Publication Date: 8-1-03

Rules Amended: 603-011-0265

Subject: This amendment provides additional safeguards to assure Oregon continues to maintain a TB free classification as assigned by USDA - APHIS. The amendment provides alternatives to individuals who import feeder cattle 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 herd 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-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;

(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.

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(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; DOA 33-2003, f. & cert. ef. 9-18-03

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Adm. Order No.: DOA 34-2003

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 9-24-03

Notice Publication Date: 4-1-03

Rules Adopted: 603-095-2800, 603-095-2820, 603-095-2840, 603-095-2860

Subject: The rules effectuate the implementation of the Willow Creek Agricultural Water Quality Management Area Plan developed pursuant to ORS 568.900 et seq.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-095-2800

Purpose

(1) These rules have been developed to implement a water quality management area plan for the subbasin pursuant to authorities vested in the department through ORS 568.900 – 568.933. The area plan is known as the Willow Creek Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Willow Creek Agricultural Water Quality Management Area, for the prevention and control of water pollution from agricultural activities and soil erosion. Compliance with Division 95 rules is expected to aid in the achievement of applicable water quality standards in the Willow Creek subbasin.

Stat. Auth.: ORS 561.190 – ORS 561.191, ORS 568.912
Stats. Implemented: ORS 568.900 – 568.933
Hist.: DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2820

Geographic and Programmatic Scope

(1) The Willow Creek Agricultural Water Quality Management Area includes the area that drains into Willow Creek or the Columbia River between Willow Creek and the Umatilla River. The physical boundaries of the Willow Creek subbasin are indicated on the map included as Attachment 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Willow Creek Agricultural Water Quality Management Area in agricultural use and agricultural and rural lands which are lying idle or on which management has been deferred, with the exception of public lands managed by federal agencies and activities that are subject to the Oregon Forest Practices Act.

(3) The provisions of these rules apply to all agricultural land whether or not in current productive agricultural use.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Willow Creek subbasin.

(5) For lands in agricultural use within other Designated Management Agencies or state agency jurisdictions, the department and the appropriate Local Management Agency shall work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

Stat. Auth.: ORS 561.190 – ORS 561.191, ORS 568.912
Stats. Implemented: ORS 568.900 – 568.933
Hist.: DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2840

Prevention and Control Measures

(1) Limitations: All landowners or operators conducting activities on agricultural lands are provided the following exemptions from the requirements of OAR 603-095-2840 (Prevention and Control Measure).

(a) A landowner or operator shall be responsible for water quality resulting from conditions caused by the management of the landowner or operator.

(b) Rules do not apply to conditions resulting from unusual weather events or other circumstances not within the reasonable control of the landowner or operator. Reasonable control of the landowner means that technically sound and economically feasible measures must be available to address conditions described in Prevention and Control Measures

(c) The Department may allow temporary exceptions when a specific integrated pest management plan is in place to deal with certain weed or pest problems.

(2) Waste Management: Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

(3) Upland Management and Soil Erosion: By January 1, 2008, landowners must control upland soil erosion using practical and available methods.

(a) Landowners must control active channel (gully) erosion to protect against sediment delivery to streams.

(b) On croplands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources; or

(B) Operating in accordance with an SWCD-approved plan for Highly Erodible Lands (HEL) developed for the purpose of complying with the current US Department of Agriculture (USDA) farm program legislation; and farming non-HEL cropland in a manner that meets the requirements of an approved USDA HEL compliance plan for similar cropland soils in the county; or

(C) Farming such that the predicted sheet and rill erosion rate does not exceed 5 tons/acre/year, as estimated by the Revised Universal Soil Loss Equation (RUSLE); or

(D) Constructing and maintaining terraces, sediment basins, or other structures sufficient to keep eroding soil out of streams.

(c) On rangelands, a landowner may demonstrate compliance with this rule by:

(A) Operating consistent with a Soil and Water Conservation District (SWCD)-approved conservation plan that meets Resource Management Systems (RMS) quality criteria for soil and water resources, or

(B) Maintaining sufficient live vegetation cover and plant litter to capture precipitation, slow the movement of water, increase infiltration, and reduce excessive movement of soil off the site; or

(C) Minimizing visible signs of erosion, such as pedestal or rill formation and areas of sediment accumulation.

(4) Streamside Management: By January 1, 2008, landowners must promote the establishment and development of adequate riparian vegetation for streambank stability, filtering sediment and shading, consistent with site capability.

(5) Irrigation Management: By January 1, 2008, irrigation must be done in a manner that limits the amount of pollutants in the runoff from the irrigated area or that leaches into groundwater.

Stat. Auth.: ORS 561.190 – ORS 561.191, ORS 568.912
Stats. Implemented: ORS 568.900 – 568.933
Hist.: DOA 34-2003, f. & cert. ef. 9-24-03

603-095-2860

Complaints and Investigations

(1) When the Department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-2860(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and
(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-2860(4), “person does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-2860(4), the department may investigate at any time any complaint if the department determines that the

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violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OAR 603-090-0060 through 603-090-0120.

Stat. Auth.: ORS 561.190 - ORS 561.191, ORS 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 34-2003, f. & cert. ef. 9-24-03

Adm. Order No.: DOA 35-2003

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 9-24-03

Notice Publication Date: 6-1-03

Rules Adopted: 603-095-3300, 603-095-3320, 603-095-3340, 603-095-3360

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

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-095-3300

Purpose

(1) These rules have been developed to implement a water quality management area plan for the Greater Harney Basin Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 - 568.933 and 561.190 - 561.191. The area plan is known as the Greater Harney Basin Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Greater Harney Basin Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with Division 95 rules is expected to aid in the achievement of applicable water quality standards in the Greater Harney Basin Agricultural Water Quality Management Area.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3320

Geographic and Programmatic Scope

(1) The Greater Harney Basin Agricultural Water Quality Management Area consists of the Malheur Lake Basin, as defined by the State of Oregon, with the exclusion of the Thousand Virgin Subbasin. The physical boundaries of the Management Area are indicated on the map included as **Attachment 1** of these rules. [Attachment not included. See ED. NOTE.]

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Greater Harney Basin Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies and lands that are held in Tribal Trust.

(3) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Greater Harney Basin Agricultural Water Quality Management Area.

(4) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the department and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply, and to assure that duplication of any services provided or fees assessed does not occur.

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

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3340

Requirements

(1) Landowners must comply with OAR 603-95-3340(2) through (3) within the following limitations. A landowner is responsible for only those conditions resulting from activities controlled by the landowner. A landowner is not responsible for conditions resulting from activities by landowners on other lands. A landowner is not responsible for conditions that: are natural, could not have been reasonably anticipated, or that result from unusual weather events or other exceptional circumstances.

(2) Desired Streamside Riparian Condition:

(a) Effective January 1, 2006, consistent with site capability, persons shall allow regeneration and growth of riparian vegetation along natural waterways to provide for:

(A) Bank stabilization;

(B) Filtration of sediments and nutrients;

(C) The sustainability of riparian community integrity through spring runoff and larger storm events; and

(D) Shade and aquatic habitat.

(b) Part (a) allows water gaps, livestock watering, and hardened livestock crossings in streams that otherwise have desired streamside riparian conditions.

(c) Part (a) does not apply to natural waterways, such as sloughs and backwater areas, that only hold water for short periods of time during spring runoff.

(d) Technical criteria to determine compliance:

(A) Management activities maintain or improve streambank integrity, with a goal of withstanding a 25-year storm event; and

(B) Ongoing renewal and growth of riparian vegetation demonstrates sustainability and vigor.

(e) Compliance will be determined through objective methods using commonly accepted monitoring protocols.

(f) Definitions that apply specifically to OAR 603-095-3340(2):

(A) Riparian means a wetland transition zone that connects riverine aquatic habitats to upland areas.

(B) Natural waterways are streams or rivers that were created through natural processes. They may be altered by human activities, but not created as a result of human activities. Irrigation ditches that contain water diverted from the main channel are not natural waterways.

(C) Riparian Community Integrity is the sustainability of a healthy and vigorous riparian community over time.

(3) Waste Management Effective on rule adoption, no person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 35-2003, f. & cert. ef. 9-24-03

603-095-3360

Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933 or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules adopted thereunder may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-3360(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-3360(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-3360, the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Stat. Auth.: ORS 561.190 - ORS 561.191 & ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 35-2003, f. & cert. ef. 9-24-03

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Adm. Order No.: DOA 36-2003
Filed with Sec. of State: 9-24-2003
Certified to be Effective: 9-24-03
Notice Publication Date: 6-1-03

Rules Amended: 603-095-0540, 603-095-0560

Subject: These rule amendments are a result of a biennial review and have been developed to update and clarify existing rules for the Yamhill Water Quality Management Area.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-095-0540

Prevention and Control Measures

All landowners or occupiers conducting activities on lands in agricultural use shall be in compliance with the following criteria. A landowner or occupier shall be responsible for only those violations of the following prevention and control measures caused by activities conducted on land managed by the landowner or occupier. Criteria do not apply to conditions resulting from unusual weather events or other exceptional circumstances which could not have been reasonably anticipated.

(1) Erosion prevention and sediment control:

(a) Landowners or occupiers shall prevent sheet and rill erosion in excess of four times the tolerable soil loss (T) leaving the property or being transported to streams.

(b) By January 1, 2005, landowners or occupiers shall prevent sheet and rill erosion in excess of two times the tolerable soil loss (T) leaving the property or being transported to streams.

(c) Sediment from sheet and rill, gully, or drainage way erosion shall not reduce the quality of waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.

(d) Indicators of non-compliance for (a) through (c) above are:

(A) Visible soil deposition that could enter natural stream areas;

(B) Visible sloughing from drainage ways as a result of livestock grazing, tillage, or human destruction of riparian vegetation; or

(C) Underground drainage tile outlets either improperly installed or maintained allowing soil or bank erosion to actively occur.

(2) Landowners or occupiers shall not apply irrigation water in a manner that results in irrigation water discharge entering waters of the state.

(a) Indicator of non-compliance is irrigation water discharge entering waters of the state.

(3) Placement, Delivery, or Sloughing of Wastes:

(a) Effective upon adoption of these rules,

(A) Except as provided in ORS 468B.050, no person conducting agricultural land management shall:

(i) Cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to be carried into the waters of the state by any means.

(ii) Discharge any wastes into any waters of the state if the discharge reduces the quality of such waters below the water quality standards established by rule for such waters by the Environmental Quality Commission.

(B) No person shall violate the conditions of any waste discharge permit issued pursuant to ORS 468B.050 or 568.

(b) Indicators of non-compliance are:

(A) Runoff flowing through areas of high livestock usage and entering waters of the state; or

(B) Livestock waste located in drainage ditches or areas of flooding.

(4) Landowners or occupiers shall prevent crop nutrient applications that result in adverse impacts to waters of the state.

(a) Indicators of non-compliance are:

(A) Nutrients applied to open water; or

(B) Visible trail of compost, ash, or bio-solids to waters of the state.

(5) Landowners or occupiers shall prevent the application of chemicals in combination with irrigation water that results in transport into waters of the state.

(a) Indicator of non-compliance is chemigated water flowing into waters of the state.

(6) Roadways, staging areas, farmsteads, and heavy use areas shall be constructed and maintained to prevent sediment or runoff contaminants from reaching waters of the state. All roads on agricultural lands not subject to the Oregon Forest Practices Act (OFPA) are subject to this regulation. Public roads are excluded from this prevention and control measure.

(a) Indicators of non-compliance are:

(A) Surface runoff from farmsteads, roads, and staging areas that pick up contaminants and flow to waters of the state; or

(B) Visible gully erosion in roads or staging areas.

(7) Landowners or occupiers shall manage streamside areas to allow the establishment, growth, and/or maintenance of riparian vegetation appropriate to the site. Vegetation must be sufficient to provide shade and to protect the streamside area such that it maintains its integrity during high stream flow events such as those events which are reasonably expected to occur following a 25-year, 24-hour storm event.

(a) If any agricultural activity degrades riparian vegetation, the landowner or occupier shall replant or restore the disturbed area to an adequate cover as soon as practical.

(b) Indicator of non-compliance is active streambank sloughing or erosion as a result of tillage, grazing, or destruction of vegetation by the landowner or occupier.

Stat. Auth.: ORS 568.912

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 20-2000, f. & cert. ef. 7-12-00; DOA 36-2003, f. & cert. ef. 9-24-03

603-095-0560

Complaints and Investigations

(1) When the Department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, or through notification by another agency, the Department may conduct an investigation. The Department may, at its discretion, coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution shall be evaluated in accordance with the criteria in ORS 568.900 to 568.933 adopted or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution or alleging any violation of ORS 568.900 to 568.933 or any rules thereunder may file a complaint with the Department.

(4) The Department will evaluate or investigate a complaint filed by a person under section OAR 603-095-0560(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The property and/or waters of the state allegedly being damaged or impacted; and

(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933 or any rules adopted thereunder.

(5) As used in section OAR 603-095-0560(4), "person" does not include any local, state or federal agency.

(6) Notwithstanding OAR 603-095-0560, the Department may investigate at any time any complaint if the Department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) Actions based on investigation findings:

(a) If the Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan exists and the landowner or occupier is making a reasonable effort to comply with the plan:

(A) The Department shall inform the landowner of the non-compliance with ORS 568.900 to 568.933 or any rules adopted thereunder; and

(B) The Department shall acknowledge the existence of the Voluntary Plan and direct the landowner to seek appropriate technical assistance and revise the plan and its implementation in a manner necessary to eliminate the violation.

(b) The landowner shall be subject to the enforcement procedures of the Department outlined in OARs 603-090-0060 through 603-090-0120 if:

(A) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan does not exist; or

(B) The Department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred and an approved Voluntary Plan exists and the landowner or occupier is not making a reasonable effort to comply with the plan; or

(C) The Department determines that a landowner or occupier has not revised a plan per paragraph (a)(B) of this section within the time specified by the Department.

Stat. Auth.: ORS 568.915, ORS 568.918, & ORS 568.933

Stats. Implemented: ORS 568.900 - ORS 568.933

Hist.: DOA 20-2000, f. & cert. ef. 7-12-00; DOA 36-2003, f. & cert. ef. 9-24-03

Adm. Order No.: DOA 37-2003

Filed with Sec. of State: 10-15-2003

Certified to be Effective: 10-15-03

ADMINISTRATIVE RULES

Notice Publication Date: 9-1-03

Rules Amended: 603-057-0410

Rules Repealed: 603-057-0410(T)

Subject: States that the Department will not take enforcement action for failure to report pesticide use for 2002, 2003 and any other year in which the Department lacks funds to provide a means for pesticide users to report pesticide use.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-057-0410

Pesticide Users Required to Report

(1) All pesticide products used by each pesticide user shall be reported at least once yearly to the Department. All pesticide use in a given calendar year shall be reported no later than January 31 of the following calendar year. A pesticide user may report the use of pesticide products on a more frequent basis if so selected by the pesticide user. Each report will include the required pesticide use information for the preceding specified period, or since the most recent filing of a pesticide use report, whichever time period is shorter.

(2) No action specified in OAR 603-057-0405(3) shall be taken for failure to report pesticide use for calendar year 2002, for calendar year 2003, or for any calendar year in which insufficient funds are made available to the Department to provide a fully effective means for pesticide users to report pesticide use.

(3) Commercial pesticide operators are required to file the pesticide use report when a commercial pesticide operator uses a pesticide product in the course of business.

(4) All agencies, instrumentalities, subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies and utilities are required to file the pesticide use report when a pesticide product is used by their employees.

(5) Employers are required to file the pesticide use report when an employee uses a pesticide product as an employee in the scope of his or her employment.

(6) All other pesticide users, other than as described in subsection (3), (4) or (5) of this section, using a pesticide product, are required to file the pesticide use report.

(7) Reports of pesticide use shall be made to the Department using forms or methods specified by the Department.

Stat. Auth.: ORS 634, ORS 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 23-2002(Temp), f. 12-2-02, cert. ef. 12-4-02 thru 6-1-03; DOA 16-2003(Temp), f. & cert. ef. 4-22-03 thru 10-18-03; DOA 37-2003, f. & cert. ef. 10-15-03

Adm. Order No.: DOA 38-2003(Temp)

Filed with Sec. of State: 10-15-2003

Certified to be Effective: 11-22-03 thru 5-19-04

Notice Publication Date:

Rules Amended: 603-057-0006

Subject: Temporarily decreases the annual fee for registration of a pesticide product with the department from \$160 to \$120.

Rules Coordinator: Sherry Kudna—(503) 986-4619

603-057-0006

Pesticide Registration Fees

(1) The annual registration fee for each pesticide product shall be \$120.

(2) Of the annual registration fee for each product, \$40 shall be allocated for the development and implementation of a comprehensive, reliable and cost-effective system for collecting and organizing information on all categories of pesticide use in Oregon.

(3) Of the annual registration fee for each product, no more than \$12, which is 10% of the \$120 allocated to general programs, shall be allocated for research projects directed toward obtaining pesticide use registrations needed by growers to produce crops economically in Oregon, as authorized by ORS 634.326.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Hist.: AD 855(27-67), f. 10-9-67, ef. 1-1-68; AD 1008(22-73)(Temp), f. & ef. 12-5-73; AD 1014(4-74), f. 1-18-74, ef. 2-11-74; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; AD 17, f. & cert. ef. 11-15-89; DOA 21-1999, f. 9-30-99, cert. ef. 11-1-99; DOA 26-2001, f. & cert. ef. 11-6-01; DOA 38-2003(Temp), f. 10-15-03 cert. ef. 11-22-03 thru 5-19-04

Department of Agriculture, Oregon Blueberry Commission Chapter 670

Adm. Order No.: OBC 1-2003

Filed with Sec. of State: 10-15-2003

Certified to be Effective: 11-1-03

Notice Publication Date: 8-1-03

Rules Adopted: 670-010-0006, 670-010-0011

Rules Amended: 670-010-0005, 670-010-0010, 670-010-0015

Subject: These new rules and amendments to existing rules bring the Oregon Blueberry Commission into compliance with Chapter 504 Oregon Laws 2001. These rules are designed to define existing terminology; to define the Industry Average Unit Price; to create a challenge process to allow producers to determine whether the assessment they paid exceeds the legal limit; and to revise the rules to include the new terminologies where appropriate.

Rules Coordinator: Lisa Ostlund—(503) 364-2944

670-010-0005

Definitions

(1) "Person" means any individual, corporation, association, partnership or joint stock company.

(2) "Commission" means the Oregon Blueberry Commission.

(3) "First Purchaser" means any person who buys blueberries from the producer in the first instance, or handler who receives the blueberries in the first instance from the producer for resale or processing.

(4) "Producer" means a person or other legal entity producing blueberries in Oregon, for market, whether as a landowners, landlord, tenant, sharecropper or otherwise.

(5) "Handler" means any producer, processor, distributor or other person engaged in handling or marketing of or dealing in blueberries, whether as owner, agent, employee, broker or otherwise.

(6) "Blueberries" means blueberries that belong to the genus *Vaccinium* (including but not limited to the cultivars "high bush", "rabbit-eye" and "low-bush" or "wild") grown commercially in the State of Oregon. All blueberry cultivars sold commercially for whatever purpose are subject to these rules .

(7) "Casual Sales" means any sales of blueberries made by the producer directly to the consumer where the total accumulated sales during the fiscal year are not more than 500 pounds.

(8) "Reporting Year" means a calendar year beginning May 1 and ending April 30.

(9) "Limit Period" means the most recent complete three reporting years used by the commission

to determine the industry average unit price.

(10) "Assessment Period" means the current reporting year, plus the previous two reporting

years.

Stat. Auth.: ORS 576.305 - ORS 576.325(1)(c)

Stats. Implemented: ORS 576.325

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-8; OBC 1-1994, f. & cert. ef. 5-17-94; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0006

Industry Average Unit Price

(1) As required by OAR 603-043-0030 the commission will adopt an industry average unit price by May 14 of each year.

(2) The industry average unit price for the previous reporting year will be obtained from the Oregon Agricultural Statistics, Berry Crop Report published in January of each year from the Price (All) category for Oregon blueberries for the previous calendar year.

(3) Using a weighted average, the commission will add the Value of Utilized Production for the three years of the assessment period and the Utilized Production (Total) from the three years of the assessment, divide the sum of the Value of Utilized Production by the sum of the Utilized Production (Total) to equal the industry average unit price for the limit period. The figures for the Value of Utilized Production and the Utilized Production (Total) will be obtained from the Oregon Agricultural Statistics Berry Crop Report.

(4) A "weighted average" for the producer will be determined by dividing the total sum of the amount received each reporting year for the last three years by the total sum of the pay weight each reporting year for the last three years.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576

Hist.: OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

ADMINISTRATIVE RULES

670-010-0010

Assessments

(1) Any producer, handler or first purchaser shall deduct and withhold an assessment of four-tenths of a cent (\$.004) per pound or \$8 per ton after June 1, 2001 for all blueberries grown in Oregon. (See definition of "First Purchaser.")

(2) The maximum assessment for a reporting year (670-010-0005(8)) will be determined by multiplying the industry average unit price (670-010-0006) for the limit period (670-010-0005(9)) by 1.5%.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576.325 & ORS 576.335

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86; OBC 1-1990, f. 5-23-90 & cert. ef. 6-1-90; OBC 2-2001, f. 5-8-01, cert. ef. 6-1-01; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0011

Challenge Process

(1) Pursuant to ORS 576.370 and OAR 603-043-0040, a producer may file a challenge by obtaining a Commission Assessment Challenge Form from the commission. The producer must file the completed Challenge Form with a US Postmark dated no later than 60 days from April 30th of each year.

(2) In calculating whether a producer has paid an assessment that exceeds one and one-half percent of the total dollar amount received by the producer for the raw commodity during the assessment period the, the producer must use the assessment period as defined by 670-010-0005(10).

(3) Pursuant to OAR 603-043-0050, all prices for any method of selling the commodity reported on the Commission Assessment Challenge Form must be the same term(s) that the commission uses to calculate the industry average unit price and the assessment rate.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576

Hist.: OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

670-010-0015

Reports and Payments of Assessment Moneys

(1) The reporting period to the Commission is annually with the assessment report and payment postmarked on or before November 30th of each reporting year.

(2) First purchasers must include the producer's name, full address, total pounds, and assessment collected for all purchases by or deliveries received during the reporting year on the assessment report. The first purchasers must sign each assessment report to certify the information provided.

Stat. Auth.: ORS 576

Stats. Implemented: ORS 576.325, ORS 576.335 & ORS 576.345

Hist.: OBC 1-1986, f. 5-28-86, ef. 6-1-86; OBC 1-2001, f. & cert. ef. 3-21-01; OBC 1-2003, f. 10-15-03, cert. ef. 11-1-03

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Department of Agriculture, Oregon Hazelnut Commission Chapter 623

Adm. Order No.: HZL 1-2003

Filed with Sec. of State: 9-30-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 623-010-0010

Subject: Proposed amendment to OAR 623-010-0010 will increase the assessment to hazelnut producers. Increased revenue is being used to file an anti-dumping petition against the Turkish hazelnut industry. The expected result will be an increase in price for U.S. produced hazelnuts to both handlers and producers.

Rules Coordinator: Polly Owen—(503) 678-6823

623-010-0010

Assessment

Any person who is a first purchaser shall deduct and withhold an assessment of \$.006 per pound or \$12 per ton on merchantable weight in-shell hazelnuts and \$.015 per pound or \$30 per ton on all shelled hazelnuts from the price paid the producer, thereof on and after October 1, 2003, on all hazelnuts grown in Oregon, except:

(1) All casual sales of filberts shall be exempt from said assessment.

(2) ORS 576.345: "When a first purchaser lives or has his office in another state or is a federal or other governmental agency, the producer shall report all sales made to such purchaser on forms provided by and pay the tax assessment directly to the Commission, unless such first purchaser

voluntarily makes the proper deduction and remits the proceeds to the Commission".

(3) Any producer who performs the handling or processing functions on all or a part of his production of the commodity, which normally would be performed by another person as the first purchaser thereof, shall report his sales on such commodity of his own production on forms provided by and pay the assessment moneys directly to the Commission, unless the first purchaser from such producer voluntarily makes the proper deduction and remits the proceeds to the Commission.

Stat. Auth.: ORS 576

Stats. Implemented:

Hist.: OFC 2, f. 8-6-59; OFC 7, f. 5-10-65, ef. 7-1-65; OFC 8, f. 4-24-72, ef. 7-1-71; OFC 2-1980, f. & ef. 7-28-80; OFC 1-1982, f. & ef. 10-4-82; OFC 2-1984, f. & ef. 3-7-84; OFC 1-1985, f. 7-29-85, ef. 8-1-85; HZL 1-2000, f. 12-8-00, cert. ef. 1-1-01; HZL 1-2003, f. 9-30-03, cert. ef. 10-1-03

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

Adm. Order No.: BCD 15-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 918-251-0090, 918-261-0020, 918-306-0000, 918-306-0010, 918-306-0510

Rules Repealed: 918-306-0100, 918-306-0110, 918-306-0120, 918-306-0130, 918-306-0140, 918-306-0150, 918-306-0160, 918-306-0170, 918-306-0200, 918-306-0210, 918-306-0220, 918-306-0230, 918-306-0300, 918-306-0310, 918-306-0320, 918-306-0330, 918-306-0500, 918-306-0600, 918-306-0610, 918-306-0700, 918-306-0705, 918-306-0710, 918-306-0715, 918-306-0720, 918-306-0730, 918-306-0740, 918-306-0750, 918-306-0760, 918-306-0770, 918-306-0780, 918-306-0700(T), 918-306-0705(T), 918-306-0710(T), 918-306-0715(T), 918-306-0720(T), 918-306-0730(T), 918-306-0740(T), 918-306-0750(T), 918-306-0760(T), 918-306-0770(T), 918-306-0780(T)

Subject: Implements 2003 House Bill 2717, which amends requirements for semiconductor electrical industrial manufacturing equipment approval.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-251-0090

Definitions

For purposes of OAR chapter 918, divisions 251 through 311, unless otherwise specified, the following shall apply:

(1) "Appliance" as applied to the limited maintenance specialty contractor license established by ORS 479.630, means any built-in or permanently-connected electrical utilization equipment, not including lighting fixtures, other than industrial, that is installed or connected as a unit to perform one or more functions such as clothes washing, air conditioning, food mixing, deep frying, etc.

(2) "Approved" when referring to electrical product certification means approved in Oregon or for Oregon by the Electrical and Elevator Board.

(3) "Balance of system" as it relates to renewable electrical energy systems are those products, equipment and systems for the conversion, control and storage of electrical energy.

(4) "Board" means Electrical and Elevator Board.

(5) "Building" means a structure that stands alone or that is isolated from adjoining structures by area separation walls as identified in **Section 504.6** of the **Oregon Structural Specialty Code** adopted in OAR chapter 918, division 460, with all openings therein protected by approved fire doors as required.

(6) "Certification Mark" is identification on an electrical product indicating that the product has been certified under ORS 479.760.

(7) "Certified Electrical Product" is an electrical product certified under ORS 479.760 to which a label or other identifying mark.

(8) "Continuously Employ" means a person, including a person leased from a worker leasing company licensed under ORS 656.850, during time periods when electrical work for which they are responsible is performed, devotes their entire time of employment to tasks of supervising, designing, laying out, planning, controlling and making electrical installations for the electrical contractor for which the supervisor is registered as signing supervisor.

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(9) "Custom Made" means electrical products that are designed for a specific purpose and location.

(10) "Document" means prepare records itemizing what was checked, why it was checked, when it was done, how it was checked, what was determined and who did the work.

(11) "Electrical Specialty Code" means the **National Electrical Code** with Oregon amendments.

(12) "Electrical Specialty Code Inspector," formerly referred to as "A-Level Electrical Inspector," is a person certified to inspect under the **Electrical Specialty Code**.

(13) "Energy generation", as it relates to renewable electrical energy generation equipment, are those products, equipment and systems in renewable electrical energy systems that produce or convert electrical energy.

(14) "Engineer" is an individual who has completed a minimum four-year degree program in electrical engineering or electrical technology with power specialty, from an accredited college or university and has received a Bachelor of Science degree.

(15) "Field Evaluation" means the evaluation of electrical products by an approved field evaluation firm .

(16) "Immediate Family" of an owner is the owner's father, mother, brother, sister, son, daughter, son-in-law, daughter-in-law, grandson, granddaughter, grandfather, grandmother, step-mother, step-father, step-son, step-daughter, brother-in-law or sister-in-law.

(17) "Indorsement" is a designation within the restricted energy electrical area showing qualifications and training regarding a product area. It determines the scope of restricted energy electrical activity authorized under a restricted energy electrical license.

(18) "Industrial Electronic Equipment" means a device, appliance, motor, or machine regulated, operated, or controlled through fiber optics or by a combination of electron tubes, capacitors, resistors, impedance transformer, and relays; the control circuit, and/or the power circuits having electrons flowing through a vacuum, metallic vapor, gas tubes, or transistors as used in an industrial plant.

(19) "Industrial Plant", for purposes of licensing and electrical master permit inspection program means an establishment engaged in industrial production, or service, or a school, hospital, sewer plant, water plant, commercial office building, building occupied by the state or a local government entity, or an institution. For purposes of the elevator program, "industrial plant" does not include a school, hospital, commercial office building, building occupied by the state or a local government entity, or an institution where the elevators are accessible to and used by persons other than the employees of that building.

(20) "Installation" includes external and field wiring, service contracts or warranties by the seller or manufacturer concerning the longevity of the equipment or parts after the original installation. It does not include "start-up" activities where new equipment is placed in service, and that type of work related to delivering and setting in place a piece of machinery.

(21) "Inverter", as it relates to renewable electrical energy generation equipment, is a product, equipment or system that converts direct current into alternating current.

(22) "Jurisdictional Inspector" is a state or municipal inspector having inspection responsibility within their jurisdiction over electrical products or their installation, or both.

(23) "Labeled" means a label, symbol or other identifying mark of a Nationally Recognized Testing Laboratory (NRTL), field evaluation firm or the division that is attached to an electrical product indicating the product is manufactured according to approved standards and tested or evaluated for specific end uses or both.

(24) "Lighting Fixture" is a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamp to the power supply.

(25) "Limited Energy System" means those systems that include Class 1, Class 2 or Class 3 systems as defined by **Section 725.2 of NFPA 70 (National Electrical Code)** and audio systems, communication systems and power-limited fire alarm systems, covered in the **Oregon Electrical Specialty Code**.

(26) "Listed Product" means a product was examined and accepted by a Nationally Recognized Testing Laboratory as meeting a particular product standard and bearing a label of the listing laboratory.

(27) "Maintain" means to preserve electrical equipment in a good sound condition.

(28) "Maintenance". Compare with repair, replacement, and maintain for definition.

(29) "Minimum Electrical Installation Safety Code" means the adopted **Oregon Electrical Specialty Code**.

(30) "Nationally Recognized Testing Laboratory (NRTL)" means a laboratory recognized by the Federal Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.7.

(31) "NEMA" means the National Electrical Manufacturers Association.

(32) "Off grid system" is a stand-alone system, connected to a structure, whose electrical systems are not connected to a utility-supplied electrical production and distribution network.

(33) "On grid system" is an electrical power system connected to a structure whose electrical systems are also connected to a utility-supplied electrical production and distribution network.

(34) "Plug-in Replacement" is a part, component or assembly designed to be inserted directly into a mating receptacle or socket such as printed circuit boards, control relays, control harnesses or other equipment connected by a cord or cable and plug assembly. A plug-in replacement does not have any field wiring that is connected to the plug-in part or assembly.

(35) "Power Circuitry" means that portion of the system, other than control, that provides electrical power to utilization equipment.

(36) "Registered Professional Electrical Engineer" is an individual licensed by the State of Oregon Board of Engineering Examiners as a professional electrical engineer under OAR chapter 820, division 10.

(37) "Renewable Electrical Energy System" as it relates to electrical energy generation, is the total components and subsystems that, in combination, convert wind energy, solar energy, micro-hydroelectricity, photovoltaic energy or fuel cell energy into electrical energy suitable for connection to a utilization load.

(38) "Repair" means to restore worn or damaged parts to a good, sound condition by means other than replacement.

(39) "Replacement" means substitution of complete units of damaged or worn equipment with similar new or used equipment of a size and rating that does not exceed the design capacity of the existing product.

(40) "Signing Supervising Electrician" or "Signing Supervisor" is a licensed supervising electrician who has been authorized by the electrical contractor to sign permits.

(41) "Similar Equipment," as applied to the limited maintenance specialty contractor license established by ORS 479.630(12), means components of light fixtures other than ballasts.

(42) "Special Deputy" means a person certified by the board or Chief Electrical Inspector to perform special deputy inspections allowed under ORS 479.760.

(43) "Stand-alone system" is a renewable electrical energy system that supplies power independently of an electrical production and distribution network.

(44) "Up to the load side of the inverter", as it relates to electrical energy generation equipment, is the renewable electrical energy system equipment up to the alternating current connection terminals of the inverter.

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

Stat. Auth.: ORS 479.630

Stats. Implemented: ORS 479.730

Hist.: DC 10, f. 4-13-72, ef. 5-1-72; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; Renumbered from 814-022-0105; BCA 44-1991, f. & cert. ef. 12-26-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-260-0005; BCD 4-1999, f. & cert. ef. 4-1-99; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-2000; BCD 5-2001, f. 6-7-01, cert. ef. 7-1-01; BCD 23-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 6-29-02; BCD 9-2002, f. 3-29-02, cert. ef. 4-1-02; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 23-2002, f. 9-13-02 cert. ef. 10-1-02; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03

918-261-0020

Exemption for HVAC/R Electrical Components

(1) Definitions. For the purposes of this rule, a "component" is an electrical part installed inside, or as part of, an appliance where the part is approved by and meets the design specifications of the manufacturer of the appliance. An appliance is not a "component."

(2) An exemption from permits and listing requirements is created under ORS 479.540 for the following components repaired, maintained or replaced by a licensed general electrical contractor with a supervising electrician, properly licensed personnel or a limited maintenance specialty contractor HVAC/R:

- (a) Electrical motor;
- (b) Compressor;
- (c) Capacitor;
- (d) Relay;
- (e) Wiring;

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- (f) Ignition transformer;
 - (g) Low voltage transformer;
 - (h) Fan or motor control;
 - (i) Sequencer;
 - (j) Pressure switch;
 - (k) Limit switch;
 - (l) Air switch;
 - (m) Air cleaner;
 - (n) Humidifier;
 - (o) Reversing valve;
 - (p) Timer;
 - (q) Defrost heater;
 - (r) Stack switch;
 - (s) Gas valves;
 - (t) An external thermostat operating at less than 100 va;
 - (u) Electric water heating element; and
 - (v) Other control devices within the appliance in residential, commercial or industrial service.
- (3) An exemption from permits and listing requirements is created under ORS 479.540 for the following components repaired, maintained or replaced by a limited maintenance specialty contractor:
- (a) Electrical motor;
 - (b) Compressor;
 - (c) Capacitor;
 - (d) Relay;
 - (e) Wiring;
 - (f) Ignition transformer;
 - (g) Low voltage transformer;
 - (h) Fan or motor control;
 - (i) Sequencer;
 - (j) Pressure switch;
 - (k) Limit switch;
 - (l) Air switch;
 - (m) Air cleaner;
 - (n) Humidifier;
 - (o) Reversing valve;
 - (p) Timer;
 - (q) Defrost heater;
 - (r) Stack switch;
 - (s) Gas valves;
 - (t) Electric water heating element; and
 - (u) Other control devices within the appliance only of the size and type typically located in a one- or two-family residence.

Stat. Auth.: ORS 479.540(l), ORS 479.550 & ORS 479.730(5)
Stats. Implemented: ORS 479.540
Hist.: BCA 8-1992(Temp), f. 4-29-92, cert. ef. 7-1-92; BCA 17-1992, f. & cert. ef. 9-1-92; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-330-0130; BCD 4-1999, f. & cert. ef. 4-1-99; BCD 14-1999, f. & cert. ef. 10-1-99; BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03

918-306-0000

Scope and Authority for Rule

- (1) The rules in OAR 918-306-0000 to 918-306-0530 deal with the different ways to qualify an electrical product for sale, disposal and installation in Oregon.
- (2) Authority for rules.
- (a) ORS 479.540 authorizes partial and complete product exemptions;
 - (b) ORS 479.610 requires products for sale in Oregon to be certified;
- and

- (c) ORS 479.730 authorizes creation of procedures for product certifications, administration and enforcement and field evaluation of electrical products.

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.540, ORS 479.610, ORS 479.730 & ORS 479.760
Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Suspended by BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03

918-306-0010

Overview

- (1) ORS 479.610 establishes certification requirements for electrical products.
- (2) The certification process generally involves testing or evaluation of the product. This is done through:
- (a) Listing and application of listing label by a Nationally Recognized Testing Laboratory (NRTL);
 - (b) Special Deputy Evaluation and Certification. A product can be submitted to the division for certification under ORS 479.760. The special

deputy procedures, rules and limitations are located in OAR 918-306-0510 to 918-306-0530; or

(c) Field Evaluation of Products. Field evaluation involves inspection, testing, evaluation and application of an evaluation label utilizing Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation dated June 2003 and published by the American Council of Independent Laboratories (ACIL).

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

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; Suspended by BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03

918-306-0510

Special Deputy Certification Procedures

When a product is accepted for special deputy certification under ORS 479.760:

(1) A division inspector determines if the product meets applicable minimum safety standards adopted by the board by:

(a) Examining the product and its components for compliance with applicable board-approved standards;

(b) Reviewing the assembly of labeled, listed, recognized or noncertified components for correct and applicable application, installation and circuit protection. Noncertified components are subject to the requirements of ORS 479.760(2); and

(c) Reviewing code compliance

(2) A certification label is attached by the special deputy inspector on the product, or placement of a certification label is authorized.

Stat. Auth.: ORS 479.760

Stats. Implemented: ORS 479.760

Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; BCD 12-2003(Temp), f. & cert. ef. 6-24-03 thru 10-31-03; BCD 15-2003, f. & cert. ef. 10-1-03

Adm. Order No.: BCD 16-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 918-309-0030

Rules Repealed: 918-309-0030(T)

Subject: Reduces certain electrical permit fees for residential wiring due to 2003 Legislature failure to ratify these fees.

Rules Coordinator: Louann P. Rahmig—(503) 373-7438

918-309-0030

Permits for Residential Wiring

(1) Fee based on square footage for each dwelling unit (including attached garage) for residential wiring, allowing up to four inspections per unit:

- (a) Wiring of not more than 1,000 square feet, \$106;
- (b) Each additional 500 square feet or portion thereof, \$19.

(2) Permit fee for Manufactured Home or Modular Dwelling including service or feeder to unit served, up to two inspections only, \$63.

(3)(a) Permit fee for Limited Energy:

(A) One and Two Family Residential, \$25;

(B) This permit fee covers all limited energy type systems in residential occupancies when installed at the same time by the permittee. Installations such as antenna wire, stereo wire, computer wire, and alarm wire done by other contractors require separate permits and fees. No limited energy permit is required if the original permittee installs wiring for doorbells, garage door opener and heating and air conditioning wiring. This permit allows up to two inspections.

(b) Multi-family residential:

(A) Multi-family residential, \$45;

(B) Compute this permit fee as provided in OAR 918-309-0070 Special Fees.

(4) Items Covered in this Section:

(a) When computing the area, include the square footage of attached garages;

(b) The residential fee covers services, feeders and all branch circuits on and inside each dwelling unit and includes garages that are attached to the dwelling unit, including the limited energy systems for the doorbell, garage door opener, and the heating and air conditioning control wiring in one and two family dwellings only;

(c) New Construction. Use this fee in connection with new construction;

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(d) Remodels, Additions, Alterations or Repairs. Compute the fee under this section using the square footage of the area remodeled or added, then compute the fee under OAR 918-309-0060 "branch circuits". Use the lower fee;

(e) Reconnection only. See OAR 918-309-0040.

(5) Application of Fees:

(a) One- or Two-Family Dwellings. To calculate the fee for a one- or two-family dwelling, obtain the square footage of each unit. Include the garage if it is attached to any unit. There is an exception in subsection (c)(A) of this section if a detached garage or accessory building is built at the same time as the dwelling unit. Compute the fee using the procedure shown for each dwelling unit. Record the number of units under "Items" in the permit and multiply this with the fee shown;

(b) Multi-family Building. In the case of a multi-family building containing three or more apartments, determine the square footage of the largest apartment in the building and compute the fee. For each additional apartment in the building, a fee of one-half of the first unit fee may be used. The house panel fee for general service equipment such as apartment unit lights, washer-dryer, outdoor lighting and the like is calculated using OAR 918-309-0060(1) services and feeders, and OAR 918-309-0060(2)(b) dealing with branch circuits. When inspection is requested, if the entire building is not ready and additional visits are required, additional inspection fees may be charged;

(c) Detached Garages. Detached garages and accessory buildings are not considered part of the residential unit. The permit fee is based on the method of supplying power to the unit:

(A) Exception – Simultaneous Construction with Single Branch Circuit. If the structure receives power through a branch circuit from the house panel with a single branch circuit, include the square footage of the garage with the living unit, provided the garage is built at the same time as the dwelling unit. If a separate construction is involved, use the fee for a single circuit under branch circuits. OAR 918-309-0060(1)(a). If more than one branch circuit is involved, use OAR 918-309-0070;

(B) Sub-Panel. If the detached structure has a sub-panel powered from the house service, the fee is computed using the "feeder" section, OAR 918-309-0040 and branch circuits, OAR 918-309-0060(1);

(C) If the detached structure is built first, the fee is based on service, feeder and branch circuits;

(D) Separate Service. If the structure has a separate service, the fee is based upon service, feeder and branch circuits.

(d) Reconnect Only. See OAR 918-309-0060(6);

(e) House Moves. In most instances, the fee will only involve a service reconnect:

(A) If changes to the service are made, a new service charge is made under OAR 918-309-0040;

(B) For each new, extension or alteration of branch circuits, use OAR 918-309-0060;

(C) If the building was moved in sections and there is no upgrading of the service, use the fees in this section using square footage.

(f) Manufactured Dwellings and Modular Homes. Manufactured dwellings and modular homes usually require a service and a feeder from the service to the home. In mobile home parks, usually only the feeder is necessary because the service already exists. Where there is a detached garage or accessory building, refer to subsection (5)(c) of this rule dealing with detached structures.

Stat. Auth.: ORS 455.030 & ORS 479.870

Stats. Implemented: ORS 455.030 & ORS 479.870

Hist.: DC 74, f. 5-21-76, ef. 8-1-76; DC 102, f. & ef. 11-1-77; DC 1-1979, f. & ef. 1-5-79; DC 5-1979(Temp), f. & ef. 3-5-79; DC 10-1979, f. & ef. 6-8-79; DC 12-1981, f. 9-29-81, ef. 10-1-81; DC 10-1982, f. & ef. 3-1-82; DC 7-1983, f. & ef. 3-11-83; Renumbered from 814-022-0108; BCA 10-1991, f. 4-26-91, cert. ef. 7-1-91; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; Renumbered from 918-260-0220; BCD 9-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 18-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 23-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 9-2001(Temp), f. 8-15-01, cert. ef. 9-4-01 thru 3-3-02; BCD 10-2001, f. 9-28-01, cert. ef. 10-1-01; BCD 10-2003(Temp), f. 6-20-03, cert. ef. 7-1-03 thru 12-27-03; BCD 16-2003, f. & cert. ef. 10-1-03

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

Adm. Order No.: FCS 1-2003

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Notice Publication Date: 8-1-03

Rules Adopted: 441-505-1110

Subject: Sets June 30, 2003 as the effective date of federal statutes and regulations for purposes of construing those provisions in references in the Bank Act.

Rules Coordinator: Berri Leslie—(503) 947-7478

441-505-1110

References to Federal Statutes and Regulations

Pursuant to ORS 706.015, references in the Bank Act to Federal Statutes and regulations shall be construed to refer to statutes or regulations in effect on June 30, 2003, unless specifically provided otherwise in the Bank Act.

Stat. Auth.: ORS 706.015

Stats. Implemented: ORS 706.015

Hist.: FCS 1-2003, f. & cert. ef. 10-06-03

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

Adm. Order No.: WCD 11-2003(Temp)

Filed with Sec. of State: 9-22-2003

Certified to be Effective: 9-22-03 thru 2-28-04

Notice Publication Date:

Rules Amended: 436-060-0010, 436-060-0019, 436-060-0035, 436-060-0500

Rules Suspended: 436-060-0010(T), 436-060-0019(T), 436-060-0035(T), 436-060-0500(T)

Subject: Temporary rules are needed to return rules 0019 and 0500 to their permanent rule wording in effect from 1/1/02 through 9/1/03 and 11/1/02 through 9/1/03 respectively, and to amend temporary rules 0010 and 0035; these rules were issued as temporary rules effective September 2, 2003. The 9/2/03 changes to rules 0019 and 0500 were not necessary to meet the primary purpose of the temporary rules as described in the next paragraph. Temporary rule 0010 has been clarified. The 9/2/03 temporary rule 0035 had stated "(6) Supplemental disability is not due on a non-disabling claim, even though the worker may otherwise be eligible for supplemental disability." This statement has been removed; supplemental disability may be due on a non-disabling claim.

Temporary amendments to OAR 436-060 affect the administration and processing of supplemental disability claims under ORS 656.210. In addition to the direct payment of supplemental disability payments, the Department of Consumer and Business Services will administer these benefits using an "assigned processing agent" if an insurer or self-insured employer chooses to have the department both administer and pay supplemental disability claims.

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

436-060-0010

Reporting Requirements

(1) A subject employer shall accept notice of a claim for workers' compensation benefits from an injured worker or the worker's representative. The employer shall provide a copy of the "Worker's and Employer's Report of Occupational Injury or Disease," Form 440-801 (Form 801) or, an optional short form, the "Worker's Notice of Claim for Occupational Injury or Disease," Form 440-801W (Form 801W), to the worker immediately upon request; the form must be readily available for workers to report their injuries. Proper use of this form satisfies ORS 656.265.

(2) A "First Medical Report," Form 440-827 (Form 827), signed by the worker, is written notice of an accident which may involve a compensable injury under ORS 656.265. The signed Form 827 shall start the claim process, but shall not relieve the worker or employer of the responsibility of filing a Form 801 or Form 801W. If a worker reports a claim electronically, the insurer may require the worker to sign a medical release form, so the insurer can obtain medical records, pursuant to OAR 436-010-0240, necessary to process the claim.

(3) Employers, except self-insured employers, shall report the claim to their insurers no later than five days after notice or knowledge of any claim or accident which may result in a compensable injury. The report shall provide the information requested on the Form 801, and shall include, but not be limited to, the worker's name, address, and social security number, the employer's legal name and address, and the data specified by ORS 656.262 and 656.265.

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(4) If an injured worker requires only first aid, no notice need be given the insurer, unless the worker chooses to file a claim. If a worker signs a Form 801 or Form 801W, the claim must be reported to the insurer. For the purpose of this section, "first aid" means any treatment provided by a person who does not require a license in order to provide the service. If the person must be licensed to legally provide the treatment or if a bill for the service will result, notice must be given to the insurer. When the worker requires only first aid and chooses not to file a claim, the employer shall maintain records showing the name of the worker, the date, nature of the injury and first aid provided for one year. These records shall be open to inspection by the director, or any party or its representative. If an employer subsequently learns that such an injury has resulted in medical services, disability or death, the date of that knowledge will be considered as the date on which the employer received notice or knowledge of the claim for the purposes of processing pursuant to ORS 656.262.

(5) The director may assess a civil penalty against an employer delinquent in reporting claims to its insurer in excess of ten percent of the employer's total claims during any quarter.

(6) An employer intentionally or repeatedly paying compensation in lieu of reporting to its insurer claims or accidents which may result in a compensable injury claim may be assessed a civil penalty by the director.

(7) The insurer shall process and file claims and reports required by the director in compliance with ORS chapter 656, WCD Administrative Rules, and WCD Bulletins. Such filings shall not be made by computer-printed forms, facsimile transmission (FAX), electronic data interchange (EDI), or other electronic means, unless specifically authorized by the director.

(8) When a claim is received and the insurer does not provide insurance coverage for the worker's employer on the date of injury, the insurer may check for other coverage or forward it to the director. The insurer shall do one or the other within three days of determining they did not provide coverage on the date of injury. If the insurer checks for coverage and coverage exists, the insurer shall send the claim to the correct insurer within the same three day period. If the insurer checks for coverage and coverage cannot be found, the insurer shall forward the claim to the director within the same three day period.

(9) The insurer or self-insured employer and third party administrator, if any, shall be identified on all insurer generated workers' compensation forms, including insurer name, third party administrator name (if applicable), address, and phone number of the location responsible for processing the claim.

(10) The insurer shall file all disabling claims with the director within 21 days of the employer's date of knowledge. The employer's knowledge date is the earliest of: (a) the date the employer (any supervisor or manager) first knew of a claim; or (b) when enough facts exist to lead a reasonable employer to conclude that workers' compensation liability is a possibility. To meet this filing requirement, the Insurer's Report, Form 440-1502 (Form 1502) accompanied by the Form 801, or its electronic equivalent, is to be submitted to the director. However, when the Form 801 is not available within a time frame that would allow a timely filing, a Form 1502, accompanied by a signed Form 827 when available, will satisfy the initial reporting requirement. If the Form 801 is not submitted at the time of the initial filing of the claim, the Form 801 must be submitted within 30 days from the filing of the Form 1502. A Form 801 prepared by the insurer in place of obtaining the form from the employer/worker does not satisfy the filing requirement of the Form 801, unless the employer/worker cannot be located, or the form cannot be obtained from the employer/worker due to lack of cooperation, or the form is computer-printed based upon information obtained from the employer and worker. The insurer shall submit copies of all acceptance or denial notices not previously submitted to the director with the Form 1502. Form 1502 is used to report claim status and activity to the director.

(11) When submitting an initial Form 1502, the insurer shall report:

- (a) The status of the claim;
- (b) Reason for filing;
- (c) Whether first payment of compensation was timely, if applicable;
- (d) Whether the claim was accepted or denied timely, if applicable;

and

(e) Any Managed Care Organization (MCO) enrollment, and the date of enrollment, if applicable.

(12) The insurer shall file an additional Form 1502 with the director within 21 days of:

- (a) The date of any reopening of the claim;
- (b) Changes in the acceptance or disability status;

(c) Any litigation order or insurer's decision that causes reopening of the claim or changes the acceptance or disability status;

(d) MCO enrollment that occurs after the initial Form 1502 has been filed;

(e) The insurer's knowledge that a previous Form 1502 contained erroneous information; or

(f) The date of any denial.

(13) A nondisabling claim shall only be reported to the director if it is denied, in part or whole. It must be reported to the director within 21 days of the date of denial. A nondisabling claim which becomes disabling must be reported to the director within 21 days of the date of the status change.

(14) If the insurer voluntarily reopens a qualified claim pursuant to ORS 656.278, it shall file a Form 3501 with the director within 21 days of the date the insurer reopens the claim.

(15) The insurer shall report a new medical condition reopening on the Form 1502 if the claim cannot be closed within 21 days of the first to occur: acceptance of the new condition, or the insurer's knowledge that interim temporary disability compensation is due and payable.

(16) New condition claims that are ready to be closed within 21 days shall be reported on the "Insurer Notice of Closure Summary," Form 440-1503 (Form 1503) at the time the insurer closes the claim. The Form 1503 shall be accompanied by the "Modified Notice of Acceptance" and "Updated Notice of Acceptance at Closure" letter.

(17) If, after receiving a claim from a worker or from someone other than the worker on the worker's behalf, the insurer receives written communication from the worker stating the worker never intended to file a claim and wants the claim "withdrawn," the insurer shall submit a Form 1502 with a copy of the worker's communication to the director, if the claim had previously been reported.

(18) The director may issue a civil penalty against any insurer delinquent in reporting or in submitting Forms 801, 1502, 1503 or 1644 with a late or error ratio in excess of ten percent during any quarter. For the purposes of this section, a claim or form shall be deemed to have been reported or submitted timely according to the provisions of ORS 656.726(4).

(19) Insurers shall make an annual report to the director reporting attorney fees, attorney salaries, and all other costs of legal services paid pursuant to ORS chapter 656. The report shall be submitted on forms furnished by the director for that purpose. Reports for each calendar year shall be filed not later than March 1 of the following year.

(20) If an insurer elects to process and pay supplemental disability benefits, pursuant to ORS 656.210(5)(a), the insurer does not need to inform the director of their election. The insurer shall request reimbursement, pursuant to OAR 436-060-0500, by filing Form 3504 "Supplemental Disability Benefits Quarterly Reimbursement Request" with the director for any quarter during which they processed and paid supplemental disability benefits. If an insurer elects not to process and pay supplemental disability benefits, the insurer shall submit Form 3530, "Supplemental Disability Election Notification," to the director by February 1 of each year. The election remains in effect for all supplemental disability claims the insurer receives during that calendar year. The election is made by the insurer and applies to all third party administrators an insurer may use for processing claims. Through December 31, 2003, an insurer may elect to process, but not pay supplemental disability benefits by submitting Form 3530, "Supplemental Disability Election Notification," to the director.

(21) An insurer may change its election made under section (20):

(a) By December 31, 2003; and

(b) Once after the division completes its first audit of supplemental disability payments made by the insurer.

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

Stat. Auth.: ORS 656.262, ORS 656.264, ORS 656.265(6), ORS 656.704, ORS 656.726(4) & ORS 656.745

Stats. Implemented: ORS 656.262(13), ORS 656.264, ORS 656.265, ORS 656.704, ORS 656.726(4) & sec. 3(5)(a), ch. 865, OL 2001

History: WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0100, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03

436-060-0019

Determining and Paying the Three Day Waiting Period

(1) Pursuant to ORS 656.210 and 656.212, the three day waiting period is three consecutive calendar days beginning with the first day the worker loses time or wages from work as a result of the compensable injury, subject to the following:

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(a) If the worker leaves work but returns and completes the work shift without loss of wages, that day shall not be considered the first day of the three day waiting period.

(b) If the worker leaves work but returns and completes the work shift and receives reduced wages, that day shall be considered the first day of the three day waiting period.

(c) If the worker does not complete the work shift, that day shall be considered the first day of the three day waiting period even if there is no loss of wages. For the purpose of this rule, an attending physician's authorization of temporary disability is not required to begin the waiting period; however, the waiting period would not be due and payable unless authorized.

(2) Pursuant to ORS 656.210(3), no disability payment is due the worker for temporary total disability suffered during the first three calendar days after the worker leaves work as a result of a compensable injury, unless the worker is totally disabled after the injury and the total disability continues for a period of 14 consecutive days or unless the worker is admitted as an inpatient to a hospital within 14 days of the first onset of total disability. For the purpose of this rule, admittance as an inpatient to a hospital can be any time following the date of the injury, but must be within 14 days of the first onset of total disability to waive the three day waiting period.

(3) If compensation is due and payable for the three day waiting period, the worker shall be paid for one-half day for the initial work day lost if the worker leaves the job during the first half of the shift and does not return to complete the shift. No compensation is due for the initial day of the waiting period if the worker leaves the job during the second half of the shift.

(4) If a worker is employed with varying days off or cyclic work schedules, the three day waiting period shall be determined using the work schedule of the week the worker begins losing time or wages as a result of the injury. If the worker is no longer employed with the employer at injury or does not have an established schedule when the worker begins losing time/wages, the three day waiting period and scheduled days off shall be based on the work schedule of the week the worker was injured.

Stat. Auth.: ORS 656.210, ORS 656.212, ORS 656.704 & ORS 656.726(4)
Stats. Implemented: ORS 656.210 & ORS 656.212
Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03

436-060-0035

Supplemental Disability for Workers with Multiple Jobs at the Time of Injury

(1) For the purpose of this rule:

(a) "Assigned processing agent" is the company or business whom the director has selected and authorized to process and pay supplemental disability benefits on behalf of the director, when the insurer has elected not to process and/or pay these benefits.

(b) "Primary job" means the job at which the injury occurred.

(c) "Secondary job" means any other job(s) held by the worker in Oregon subject employment at the time of injury.

(d) "Temporary disability" means wage loss replacement for the primary job.

(e) "Supplemental disability" means wage loss replacement for the secondary job(s) that exceeds the temporary disability, up to, but not exceeding, the maximum established by ORS 656.210.

(f) "Verifiable documentation" means check stubs or payroll records which include:

(A) Identification of the Oregon subject employer(s) and the time period of the date of injury to establish the worker held the secondary job, in addition to the primary job, at the time of injury; and

(B) Adequate information to calculate the average weekly wage in accordance with OAR 436-060-0025.

(g) "Insurer" includes third party administrator.

(2) The insurer shall establish the temporary disability rate by multiplying the weekly wages, determined pursuant to OAR 436-060-0025, from the primary employer by 66 2/3% (.6667). If the results meet or exceed the maximum temporary disability rate, the worker is not eligible for supplemental disability benefits.

(3) Within five business days of receiving a claim on which the temporary disability rate does not meet or exceed the maximum rate, the insurer shall send a worker who identifies employment in addition to the primary job on the Form 801 a notice informing the worker of the date the insurer received the claim and the final date by which the insurer or the assigned processing agent must receive verifiable documentation to determine the worker's eligibility for supplemental disability. If the insurer has elected not to process and/or pay these benefits, the insurer shall copy the assigned processing agent with the notice to the worker and the notice shall contain

the name, address, and telephone number of the assigned processing agent. The notice shall also clearly advise the worker that the verifiable documentation must be sent to the assigned processing agent.

(4) Within 14 days of receiving the worker's verifiable documentation, the insurer or the assigned processing agent shall determine the worker's eligibility for supplemental disability and shall communicate the decision to the worker and the worker's representative, if any, in writing. The written communication shall advise the worker why he/she is not eligible when that is the decision and how to appeal the decision, if the worker disagrees with the decision.

(5) A worker is eligible if:

(a) The worker was employed at the secondary job by an Oregon subject employer at the time of the injury,

(b) The worker provides verifiable documentation to the insurer or the assigned processing agent within 30 days of the insurer's receipt of the initial claim, and

(c) The worker's temporary disability rate from wages at the primary job does not meet or exceed the maximum rate under section (2) of this rule.

(6) The insurer or the assigned processing agent shall calculate supplemental disability for an eligible worker by adding all earnings the worker received from all subject employment, pursuant to ORS 656.210(2)(a)(B). In no case shall an eligible worker receive less compensation than would be paid if based solely on wages from the primary employer.

(7) If the temporary disability rate from the primary employer does not meet or exceed the maximum rate, the insurer or the assigned processing agent shall combine the weekly wages, determined pursuant to OAR 436-060-0025, for each employer and multiply by 66 2/3% (.6667) to establish the combined disability rate up to the maximum rate. This is the base amount on which the worker's combined benefits will be calculated.

(8) If the worker returns to modified work:

(a) At the primary job only, the insurer shall calculate the amount due from the primary job based only on the primary wages at injury and the primary post injury wages.

(b) At the secondary job only, the insurer or the assigned processing agent shall calculate the amount due from the secondary job based only on the secondary wages at injury and the secondary post injury wages.

(c) At both the primary and secondary job, the insurer shall calculate temporary partial disability based only on the primary wages at injury and the primary post injury wages; the insurer or the assigned processing agent shall calculate partial supplemental disability based only on the secondary wages at injury and the secondary post injury wages.

(9) If the worker receives post injury wages from the secondary job equal to or greater than the secondary wages at the time of injury, no supplemental disability is due.

(10) If the worker returns to a job not held at the time of the injury, the insurer or the assigned processing agent shall process supplemental disability under the same terms, conditions and limitations as OAR 436-060-0030.

(11) Except as otherwise provided in sections (2), (7), (8), and (9) of this rule, supplemental disability shall be due and processed under the same provisions, conditions, and limitations as would be applicable to temporary disability for the job at injury. Supplemental disability may be due on a non-disabling claim even if temporary disability is not due from the primary job. The non-disabling claim will not change to disabling status due to payment of supplemental disability. When supplemental disability payments cease on a non-disabling claim, the insurer or the assigned processing agent shall send the worker written notice advising the worker that their supplemental disability payments have stopped and of the worker's right to appeal that action to the Workers' Compensation Board within 60 days of the notice, if the worker disagrees.

(12) If the insurer has elected to process and pay supplemental disability pursuant to ORS 656.210(5)(a), the insurer shall determine the worker's on-going entitlement to supplemental disability and shall pay the worker supplemental disability simultaneously with any temporary disability due. Reimbursement for supplemental disability paid will be made pursuant to OAR 436-060-0500.

(13) Through December 31, 2003, if the insurer has elected to process, but not pay supplemental disability pursuant to ORS 656.210(5)(b), the insurer shall determine the worker's on-going entitlement to supplemental disability and shall submit a Form 3503, "Supplemental Disability Payment Voucher" (Form 3503), to the division no later than the date the payment would otherwise be due. Form 3503 must include:

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- (a) The WCD file number, if known;
- (b) The worker's name and mailing address;
- (c) The date of injury;
- (d) Whether the claim is disabling or non-disabling;
- (e) The worker's social security number;
- (f) The insurer's claim number;
- (g) The legal name of the primary job employer;
- (h) The primary job employer's WCD registration number;
- (i) The weekly wage of the primary job;
- (j) The legal names of all secondary job employers;
- (k) The WCD registration number for each secondary job employer;
- (l) The pre-injury weekly wage of each secondary job;
- (m) Supplemental disability payable from and through dates; and
- (n) The amount of supplemental disability to pay the worker.

(14) If the insurer has elected not to process and/or pay supplemental disability, the assigned processing agent shall determine the worker's on-going entitlement to supplemental disability and shall pay the worker supplemental disability due once each 14 days.

(15) A worker who is eligible for supplemental disability under section (5) of this rule has an on-going responsibility to provide information and documentation to the insurer or the assigned processing agent, even if temporary disability is not due from the primary job.

(16) If the insurer has elected not to process and/or pay supplemental disability, the insurer and the assigned processing agent shall communicate and retain documentation of shared information, as necessary, to coordinate benefits due.

(17) Supplemental disability applies to occupational disease claims the same as injury claims. Supplemental disability benefits for an occupational disease shall be based on the worker's combined primary and secondary wages at the time there is medical verification the worker is unable to work because of the disability.

(18) When an insurer elects to pay supplemental disability pursuant to ORS 656.210(5)(a) and OAR 436-060-0010(20) and receive reimbursement pursuant to OAR 436-060-0500, the insurer shall maintain a record of supplemental disability paid to the worker, separate from temporary disability paid as a result of the job at injury.

(19) If a worker disagrees with the insurer's or the assigned processing agent's decision about the worker's eligibility for supplemental disability or the rate of supplemental disability, the worker may request a hearing before the Hearings Division of the Workers' Compensation Board. If the worker chooses to request a hearing on the insurer's decision concerning the worker's eligibility for supplemental disability, the worker must submit an appeal of the insurer's or the assigned processing agent's decision within 60 days of the notice in section (4) of this rule. Disputes that arise about the rate of supplemental disability may be resolved pursuant to OAR 436-060-0025(5) and may be submitted at any time. However, the insurer for the primary job is not required to contact the secondary job employer. The worker is responsible to provide any necessary documentation. By requesting resolution of the dispute under OAR 436-060-0025(5), the worker authorizes the Workers' Compensation Division to contact the secondary job employer to verify information provided by the worker to resolve the dispute.

Stat. Auth.: ORS 656.210, ORS 656.704 & ORS 656.726(4)
Stats. Implemented: ORS 656.210, ORS 656.325(5), ORS 656.704, ORS 656.726(4) & sec. 3(2)(a), ch. 865, OL 2001
Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 6-2002(Temp), f. 4-22-02, cert. ef. 5-10-02 thru 11-5-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03

436-060-0500

Reimbursement of Supplemental Disability for Workers with Multiple Jobs at the Time of Injury

(1) When an insurer elects to pay supplemental disability due a worker with multiple jobs at the time of injury, reimbursement of the supplemental amount shall be made by the director quarterly, after receipt and approval of documentation of compensation paid by the insurer or the third party administrator.

(2) Requests for reimbursement shall be submitted on Form 3504, "Supplemental Disability Benefits Quarterly Reimbursement Request," and shall include, but may not be limited to:

- (a) Identification and address of the insurer responsible for processing the claim;
- (b) The worker's name, WCD file number, date of injury, social security number, and the insurer claim number;
- (c) Whether the claim is disabling or non-disabling;
- (d) The primary and secondary employer's legal names;

- (e) The primary and secondary employer's WCD registration numbers;
- (f) The weekly wage of all jobs at the time of the injury separated by employer;
- (g) The dates for the period(s) of supplemental disability due and payable to the worker. Dates must be inclusive (e.g., 1-16-02 through 1-26-02);
- (h) The amount of supplemental disability paid for the periods in (2)(g);
- (i) The quarter and year in which the payment was made;
- (j) A signed payment certification statement verifying the payments; and
- (k) Any other information required by the director.

(3) In addition to the supplemental disability reimbursement, the division shall calculate and the insurer shall be reimbursed an administrative fee based on the annual claim processing administrative cost factor, as published in Bulletin 316.

(4) Periodically the division will audit the physical file of the insurer responsible for processing the claim to validate the amount reimbursed. Reimbursement will be disallowed and repayment will be required if, upon such audit, it is found:

- (a) Payments exceeded statutory amounts due, excluding reasonable overpayments, as determined by the division;
- (b) Compensation has been paid as a result of untimely or inaccurate claims processing; or
- (c) Payments of compensation have not been documented, as required by OAR 436-050.

(5) Supplemental disability benefits due subject workers of an employer who is in a noncomplying status as defined in ORS 656.052 are not eligible for separate reimbursement under this rule, but remain a cost recoverable from the employer as provided by ORS 656.054(3).

(6) Claim Dispositions or Stipulated Settlements, pursuant to ORS 656.236 or 656.289 which include amounts for supplemental disability benefits due to multiple jobs, are not eligible to receive reimbursement from the Workers' Benefit Fund unless made with the prior written approval of the director.

(a) Requests for written approval of proposed dispositions shall include:

(A) A copy of the proposed disposition or settlement which specifies the amount of the proposed contribution to be made from the Workers' Benefit Fund;

(B) A statement from the insurer indicating how the amount of the contribution was calculated; and

(C) Any other information required by the director.

(b) The director will not approve the disposition for reimbursement if the proposed contribution exceeds a reasonable projection of that claim's future liability to the Workers' Benefit Fund.

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

Stat. Auth.: ORS 656.704, ORS 656.726(4) & sec. 3(5)(a), ch. 865, OL 2001

Stats. Implemented: ORS 656.210, ORS 656.704 & ORS 656.726(4)

Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03

Department of Corrections

Chapter 291

Adm. Order No.: DOC 14-2003

Filed with Sec. of State: 9-25-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 6-1-03

Rules Amended: 291-077-0010, 291-077-0020, 291-077-0030, 291-077-0033, 291-077-0035, 291-077-0040

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

Rules Coordinator: Carolyn Schnoor—(503) 945-0933

ADMINISTRATIVE RULES

291-077-0010

Authority, Purpose and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.440, 423.020, 423.030, and 423.075 and Article I, Section 41 of the Oregon Constitution.

(2) Purpose: The purpose of this rule is to establish Department of Corrections policy and procedures governing its provision and distribution of monetary awards and other incentives to inmates made under the department's Performance Recognition and Awards System (PRAS).

(3) Policy:

(a) Within the inherent limitations of resources and the need for facility security, safety, health and order, it is the policy of the Department of Corrections to make available to inmates monetary awards and other incentives to recognize and encourage good institutional conduct. This includes exceptional performance in work and workforce development assignments and in self-improvement programs that address the criminal behaviors that lead to their incarceration.

(b) Monetary awards provided to inmates under the PRAS and these rules are made available solely at the discretion of the Department, and may include the following:

(A) Performance awards that support the development of good performance and behaviors by inmates in Department of Corrections facilities; and

(B) Special Meritorious Awards that reward exceptional acts or behaviors by inmates that contribute to the safe and orderly operation of Department of Corrections facilities.

(c) Non-Monetary Incentives: Functional unit managers will examine the assets and practices of their facility and develop and implement non-monetary incentives that support the mission of the Department of Corrections and motivate inmates toward positive institutional behaviors and program compliance.

Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 1-1997(Temp), f. & cert. ef. 2-1-97; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 22-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 3-29-01; Administrative correction 6-20-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0020

Definitions

(1) Approved Programming: Inmate program assignments which are in compliance with an inmate's incarceration plan and Article I, Section 41 of the Oregon Constitution.

(2) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or administrator and has responsibility for delivery of program services or coordination of program operations.

(3) General Population: For the purposes of these rules, any housing assignment that is not Special Housing as described in section (8) below.

(4) Non-Monetary Incentive Program (also called Non-Cash Incentives Program): A program developed to enhance PRAS. This system will utilize a "non-cash" item to recognize inmates for their past and continued successful performance in approved programming and good institutional conduct.

(5) Performance Awards: Monthly monetary awards made to inmates at the discretion of the department to support the development of good performance and behavior and provide inmates with incentives to fully participate in programs that address criminal thinking, workforce development needs, substance abuse problems, and other contributors to their criminal behavior.

(6) Program Failure: Failure to satisfactorily perform in a program assignment, and/or violation of a major rule resulting in disciplinary sanction.

(7) Qualifying Programs: Any qualifying inmate assignment, including work, training, treatment and workforce development. Qualifying programs may include, but are not limited to the following:

(a) Work based education (WBE) program assignments in which inmates perform a service or produce a product. Many of the programs may include both training and production components.

(b) Treatment assignments that address diagnosed mental or behavioral problems that are barriers to successful employment, including but not limited to, alcohol and drug treatment or mental health day treatment; and

(c) Workforce development assignments intended to remove educational barriers (e.g., Adult Basic Education (ABE) or English as a Second Language (ESL)) or address personal deficits (e.g., Anger Management or Basic Living Skills) that impede employment.

(8) Special Housing: For purposes of these rules, special housing includes inmates housed in the following:

- (a) Administrative Segregation;
- (b) Disciplinary Segregation;
- (c) Death Row;
- (d) Intensive Management Unit; and
- (e) Special Management Unit.

(9) Special Meritorious Awards: Monetary awards made to inmates at the discretion of the department to reward exceptional acts or behaviors that contribute to the safe and orderly operation of the facility, result in reductions in the cost of government, or recognize achievements in meeting team goals in a work or training assignment.

(10) Visitation Enhancements: Additional options over and above those mandated in the rule on Visiting (OAR 291-126). (Examples may include extra visiting points or different visiting hours.)

Stat. Auth.: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, ORS 423.075
Stats. Implemented: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, ORS 423.075
Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0030

Inmate Performance Awards

(1) All inmates housed in a Department of Corrections facility, except inmates who are provided compensation by the department for their participation in an inmate work program, may be considered at the discretion of the department for a monthly performance award in accordance with these rules.

(2) The awards will be made based on three primary considerations: the level of responsibility associated with an inmate's program assignments; the level of performance demonstrated by the inmate in his/her program assignments; and the inmate's institutional conduct. Individual performance awards will be determined based on each eligible inmate's **total monthly performance points**.

(3) Evaluation Period: Each inmate will undergo a 120-day evaluation period. During this period, the department will assess an inmate's willingness, attitude, and aptitude to perform in his or her particular program assignment(s). Inmates will not earn PRAS points for program assignments during this evaluation period. The 120 days begin accumulating on the inmate's admission date to the department. Inmates housed in minimum security facilities are exempt from the 120-day evaluation period.

(4) Daily Points: After the 120-day evaluation period, and for each day of satisfactory performance in a qualifying program assignment(s), the department will credit each eligible inmate with points equal to the value of the responsibility level for the inmate's program assignment. Satisfactory level of performance will be determined on a pass/fail basis. The total points credited to the inmate for each day equals the inmate's daily points.

(5) Monthly Performance Points:

(a) Each month the department will add together the inmate's daily points for that month to determine the inmate's monthly performance points. The monetary awards for specific points ranges of monthly performance awards are set forth in **Appendix A**.

(b) The department will deduct a fixed percentage of each performance award made to inmates under these rules, to be credited to a general victims assistance fund. The department will credit the remainder of any monetary award to each recipient inmate's trust account.

(6) Responsibility Level: The department will assign a level of responsibility for each qualifying program assignment. The Assistant Director for Programs or designee will determine a specific responsibility level for each qualifying program.

(a) Qualifying program assignments will be assigned a responsibility level determined from a job description from the Department of Labor, Dictionary of Occupational Trades (DOT) that best describes the duties of the assignment. Each DOT job description includes skill level rating for specific vocational preparation (SV), reasoning, language and math.

(b) The Assistant Director for Programs or designee may assign a qualifying program assignment a responsibility level that differs from the DOT job description when deemed appropriate to more accurately reflect the level of responsibility associated with a particular program assignment. However, in no case will the responsibility level be assigned based on the value of the inmate's work to the facility or any public agency or private enterprise.

(7) Satisfactory Performance: Program supervisors will submit to the functional unit manager or designee, their daily pass/fail assessment for each inmate's performance in each qualifying program. The daily assessment will be based on the inmate's attendance, performance quality, per-

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formance effort, interpersonal communications with staff and fellow inmates, self-improvement effort, and ability to follow directions.

(8) Multiple Program Assignments: Inmates will be credited with points from only one assignment in the work program category and one assignment in the work-based education/treatment category in any given day. Inmates will be credited with points from the highest responsibility level in each of the two categories in a specific day. A failing level of performance in any of the program assignment category will result in no points being awarded in that category for that day.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 179.040, ORS 423.020, ORS 423.030 & ORS 423.075
Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 1-1997(Temp), f. & cert. ef. 2-1-97; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; CD 31-1997(Temp), f. 12-24-97, cert. ef. 1-1-98; DOC 15-1998, f. 6-24-98, cert. ef. 6-29-98; DOC 22-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 3-29-01; DOC 1-2001, f. & cert. ef. 1-11-01; DOC 4-2003(Temp) f. 2-20-03, cert. ef. 2-28-03 thru 8-24-03; DOC 13-2003, f. & cert. ef. 8-22-03; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0033

Behavioral Adjustments, Unsatisfactory Performance and Program Failures

(1) Program supervisors may submit a fail assessment of an inmate's daily performance in any qualifying program.

(a) When a fail assessment is submitted, it is the supervisor's responsibility to complete a Record of Inmate Daily Performance Failure (CD 118a).

(b) One copy will be given directly to the inmate, one copy attached to the daily attendance roster, and remaining copies distributed in accordance with institution-specific procedures.

(2) The inmate assignment supervisor, in his/her sole discretion, with reasonable cause may fail an inmate from any qualifying program.

(a) When a program failure is submitted, it is the supervisor's responsibility to complete an Inmate Performance Report (CD 118b).

(b) One copy will be given directly to the inmate, one copy attached to the daily attendance roster, and remaining copies distributed in accordance with institution specific procedures.

(3) Evaluation Period: There is also a 30-day program pass evaluation period that is a total of 30 successful programming days (30 daily passes). Inmates will not earn daily points during this evaluation period. An inmate will undergo the 30-day program pass evaluation period if involved in any of the following:

(a) Removal from a program for failure to satisfactorily perform in a program assignment; or

(b) Placement in segregated housing in connection with an inmate disciplinary sanction order.

(c) If an inmate is involved in any of the above events during the initial 120-day evaluation period described in OAR 291-077-0030(3), the 30-day program pass evaluation will not start until after the 120-day evaluation period is completed.

(4) Behavioral Adjustment:

(a) The department will record all inmate disciplinary sanction orders and adjust downward the inmate's monthly performance points based on the level of misconduct assigned to the disciplinary rule violation(s) by the corresponding inmate disciplinary grid(s) contained in the department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). For each disciplinary order sanctioning an inmate for a disciplinary rule violation, the department will deduct points from an inmate's monthly performance points based on the level of misconduct as follows: [Table not included. See ED. NOTE.]

(b) Deductions for behavioral adjustment will be made in the month in which the final disciplinary order is issued in the disciplinary case. Monthly performance points with behavioral adjustments will be calculated as follows: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat Auth.: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, & ORS 423.075
Stats. Implemented: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, & ORS 423.075
Hist.: DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0035

Non-Monetary Incentives (Non-Cash Incentives)

The purpose of non-cash incentives is to enhance cost effective inmate management by providing tiered access to services and privileges at department facilities. Non-cash incentives encourage pro-social behavior among inmates consistent with good correctional practices and the mission of the department. Functional unit managers may limit an inmate's access to services and privileges available within the incentive level attained by

the inmate, as necessary, to ensure the safe and secure operation of the facility.

(1) General:

(a) Functional unit managers will develop a list of services and privileges at their facility as part of the DOC non-cash incentives program.

(b) Specific services and privileges available to inmates may differ between facilities depending on size and configuration of space and availability of resources.

(c) Some incentive services and privileges will be available throughout the department at each facility.

(d) There will be three incentive levels (Level I, Level II, and Level III) available to inmates housed at multi-custody and medium security facilities.

(e) There will be three incentive levels (Level IV, Level V, and Level VI) available to inmates housed at minimum security facilities.

(f) Incentive levels will be calculated electronically at the end of each business day and made available to staff the following business day.

(2) Inmate Eligibility:

(a) All general population inmates will be eligible to earn services and privileges identified as non-cash incentives. Inmates who are not in general population will be ineligible to participate in the non-cash incentive program.

(b) For inmates in special housing, the time period to attain eligibility for an incentive level will start the day of their release from special housing.

(c) Inmates may earn promotion to higher incentive levels by compliance with prescribed programming and good institutional behavior.

(d) Alternatively, an inmate's incentive level may be lowered as a consequence of noncompliance with prescribed programming or engaging in prohibited conduct.

(e) An inmate's incentive level will be lowered no more than one level as a result of a disciplinary sanction, program failure, or daily performance failures, except when the inmate receives a sanction of more than 21 days in segregation. When the sanction is greater than 21 days in segregation, the inmate will be placed at the lowest incentive level available at the facility.

(f) An inmate may not start accruing credit for promotion to a higher incentive level until after all disciplinary sanctions are satisfied, including any loss of privileges.

(g) Multi-custody and medium security facilities will share a single set of inmate eligibility criteria.

(h) Minimum security facilities will have a set of eligibility criteria that differs from multi-custody or medium security facilities because they are operationally unique; e.g., housing inmates with shorter sentences.

(i) The incentive levels and corresponding eligibility criteria are shown in **Appendix B**. Functional unit managers may develop additional criteria to manage services and privileges specific to the institution within the framework of **Appendix B** (e.g. waiting lists).

(j) The functional unit manager or designee may adjust an inmate's incentive level by one, up or down, as necessary to promote good institutional conduct and program compliance.

(k) The functional unit manager or designee may waive the non-cash incentive system for a specific event(s) to allow all general population inmates to participate.

(3) Transfers:

(a) Inmates will retain the incentive level they have earned upon transfer to another facility with a similar security level. (For example, an inmate transferred from a multi-custody facility or a medium custody facility to another multi-custody or medium security facility will retain the same incentive level.)

(b) Inmates transferred from a multi-custody or medium facility to a minimum security facility will retain incentive property and canteen spending limit privileges earned prior to the transfer. However, the inmate will be placed at the appropriate incentive level as determined by how his/her institutional history matches the eligibility criteria for minimum security facilities. Access to institution-specific services and privileges available at the receiving facility may be subject to waiting periods established by the functional unit manager or designee.

(4) Property:

(a) Inmates will retain property purchased (i.e., television, CD player, CDs) prior to the adoption of this rule subject to limitations on use established by the functional unit manager or designee.

(b) Property items offered as part of the non-cash incentive program (incentive property) will be offered department wide unless the property is part of a limited duration pilot project approved by the Assistant Director of Institutions/designee.

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(c) Once purchased, incentive property will be handled in accordance with the rule on Personal Property (Inmate) (OAR 291-117).

(d) When access to property is restricted by a disciplinary sanction (loss of privileges or assignment to disciplinary segregation), incentive property will be stored at the direction of the functional unit manager/designee.

(e) Inmates will not be required to send incentive property home as a result of disciplinary infractions.

(f) Incentive property will be returned to the inmate upon completion of the disciplinary sanction. Within available resources, the inmate will be allowed full access and use of the incentive property even if the inmate's incentive level has been reduced as a result of the disciplinary infraction. (For example, an inmate may be assigned to housing that is not wired for televisions upon release from disciplinary segregation.)

(g) Transfers: Incentive property attained after the implementation of this rule will transfer to the receiving facility.

(h) Certain property sold prior to implementation of this rule will not transfer to the receiving facility; e.g., 13-inch television.

(5) Non-Cash Incentive Categories: The functional unit manager or designee will identify services and privileges that are unique to the facility. Some services and privileges will be offered consistently throughout the department at every facility.

(6) Multi-Custody and Medium Security Facilities:

(a) Level I inmates are eligible to access only services and privileges defined by rule.

(b) Level II inmates are eligible to access services defined by rule and the following enhancements:

(A) May spend \$10 above the established weekly base level for canteen;

(B) May apply for membership in clubs or special interest groups (if available);

(C) May purchase a personal television;

(D) May attend special events as defined by the functional unit manager or designee;

(E) May apply for participation in activities associated with special turnouts as defined by the functional unit manager or designee; and

(F) May participate in visitation enhancements as defined by the functional unit manager or designee.

(c) Level III inmates are eligible to access services and privileges as listed for Level II inmates with the following enhancements:

(A) May spend \$25 above the established weekly base level for canteen;

(B) May apply for elected leadership in clubs or special interest groups (if available);

(C) May purchase a CD player and CD (Note: The number of CDs purchased may be limited);

(D) May apply for participation in arts, crafts, and handicraft activities as defined by the functional unit manager or designee;

(E) May participate in visitation enhancements of a greater level than offered in Level II as defined by the functional unit manager or designee; and

(F) May apply for participation in incentive housing as defined by the functional unit manager or designee.

(7) Minimum Security Facilities: Inmates transferring to minimum security facilities will retain personal property and canteen spending limits earned prior to the transfer.

(a) Level IV inmates are eligible to access services and privileges as defined by rule.

(b) Level V inmates are eligible to access services and privileges as defined by rule and the following enhancements:

(A) May spend \$10 above the established weekly base level for canteen;

(B) May purchase a personal television;

(C) May attend special events as defined by the functional unit manager or designee;

(D) May apply for participation in special activity turnouts as defined by the functional unit manager or designee; and

(E) May participate in visitation enhancements as defined by the functional unit manager or designee.

(c) Level VI inmates are eligible to access services and privileges as listed for Level V inmates and the following enhancements:

(A) May spend \$25 above the established weekly base level for canteen;

(B) May purchase a CD player and CD (Note: The number of CDs purchased may be limited); and

(C) May apply for participation in arts, crafts, and handicraft activities as defined by the functional unit manager or designee;

(D) May participate in visitation enhancements of a greater level than offered in Level V as defined by the functional unit manager or designee;

(E) May apply for participation in incentive housing as defined by the functional unit manager or designee,

(8) The functional unit manager or designee will create a matrix of non-cash incentives detailing services and privileges available to inmates at each incentive level within the facility. The matrix will be updated and made available to inmates at least annually. Any restrictions or additional eligibility criteria for institution-specific services and privileges (e.g., waiting lists) will be included in the matrix.

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

Stat Auth.: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, & ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, & ORS 423.075

Hist.: DOC 2-2001(Temp), f. & cert. ef. 1-22-01 thru 7-18-01; DOC 15-2001, f. & cert. ef. 7-9-01; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

291-077-0040

Special Meritorious Awards

Inmates are eligible to be considered at the discretion of the department for special meritorious awards, as follows:

(1) Exceptional Acts or Behaviors: The functional unit manager may grant an inmate a special meritorious award for exceptionally positive acts or behaviors of significant benefit to the agency, staff, inmates, or the public, as follows:

(a) Acts of outstanding heroism;

(b) Satisfactory performance of an unusually difficult or hazardous assignment that requires personal responsibility related to public safety;

(c) Suggestions which result in substantial improvement of programs or definite economies of operation; or

(d) Other clearly exceptional or outstanding services which are consistent with the character of, but are not specified in, the above.

(2) Monthly Team Goals: The functional unit manager may grant inmates involved in a program assignment that emphasizes teamwork a special meritorious award to recognize their achievement in meeting team goals:

(a) The goals must be team-based, related to established job standards, and have measurable objectives that exceed the established job standards, as approved by the Assistant Director for Programs or designee.

(b) Established job standards, may include, but are not limited to, avoidance of injuries, meeting safety standards, efficient use of resources, maintaining equipment in operational status, team communication and sharing responsibilities.

Stat. Auth.: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, ORS 423.075

Stats. Implemented: ORS 179.040, ORS 421.440, ORS 423.020, ORS 423.030, ORS 423.075

Hist.: CD 21-1996(Temp), f. & cert. ef. 12-3-96; CD 7-1997, f. 5-19-97, cert. ef. 6-1-97; DOC 14-2003, f. 9-25-03, cert. ef. 10-1-03

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Rules Adopted: 291-063-0016, 291-063-0036, 291-063-0060

Rules Amended: 291-063-0005, 291-063-0010, 291-063-0030, 291-063-0040

Rules Repealed: 291-063-0015, 291-063-0020, 291-063-0035

Rules Transferred: 291-063-0025 to 291-063-0050

Subject: The department is amending these rules to bring the inmate eligibility requirements for granting of short-term transitional leave and emergency leave into compliance with statutory requirements.

Rules Coordinator: Carolyn Schnoor—(503) 945-0933

291-063-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 421.166, 421.168, 423.020, 423.030, and 423.075

(2) Purpose: To provide uniform procedures, standards, and guidelines for granting or denying short-term transitional leaves, emergency leaves or supervised trips and to establish supervision standards for such leaves.

(3) Policy: It is the policy of the Department of Corrections, pursuant to ORS 421.166 and 421.168, to allow inmates short-term transitional

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leaves, emergency leaves or supervised trips from correctional facilities when circumstances indicate a leave or supervised trip would be in accordance with generally accepted correctional and rehabilitation practices.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075
Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0010

Definitions

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

(2) Emergency Leave: A leave of ten days duration or less within the state for the specific purposes listed in 291-063-0050(2)(a) where the inmate is expected to return to the releasing facility.

(3) Employee: Any person employed full-time, part-time or under temporary appointment by the Department of Corrections.

(4) Enter Parole/Probation Record (EPR): A record on the Law Enforcement Data System (LEDS) which identifies an inmate who is in the community on parole, probation, post-prison supervision, short-term transitional leave, or emergency leave exceeding five days.

(5) Immediate Family Member: Husband, wife, father, mother, sister, brother, daughter/son, and grandparents including step-relationships of such.

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

(7) Releasing Authority: The functional unit manager or designee of the correctional facility from which the inmate is to be or has been released on short-term transitional leave, supervised trip or emergency leave.

(8) Short-Term Transitional Leave: A leave for a period not to exceed 30 days preceding an established projected release date and/or parole release date which allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community.

(9) Supervised Trip: Any nonroutine trip outside a Department of Corrections facility within the State of Oregon which is supervised by an employee of the Department of Corrections or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

Stat. Auth.: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075
Stats. Implemented: ORS 179.040, ORS 421.166, ORS 421.168, ORS 423.020, ORS 423.030 & ORS 423.075
Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0016

Procedures

(1) Eligibility Requirements:

(a) An inmate must be incarcerated for six months, including applicable county jail time credits, before being eligible for short-term transitional leave.

(b) Any person serving a sentence for a crime committed prior to November 1, 1989, shall not be eligible for short-term transitional leave.

(c) Persons incarcerated for a violation of parole or post-prison supervision are not eligible for short-term transitional leave pursuant to ORS 144.108(3)(b).

(d) Under the provisions of ORS 144.260, any inmate sentenced on or after December 4, 1986, require that a notification be distributed to the sentencing judge, district attorney, and sheriff 30 days prior to unescorted release from physical custody. Upon request, victims will be notified in the same manner.

(e) Any person sentenced under the provision of ORS 137.635 shall not be eligible for short-term transitional leave.

(f) Any person sentenced under the provision of ORS 161.610 shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121.

(g) Any person sentenced under the provisions of ORS 163.105 for aggravated murder committed on or after November 1, 1989, shall not be eligible for short-term transitional leave until completion of the minimum incarceration term imposed by the court and the Board of Parole and Post-Prison Supervision issues a Board Action form converting the sentence to "life with possibility of release or work release" and sets a release date.

(h) Any person sentenced under the provisions of ORS 163.115 for murder:

(A) Committed on or after November 1, 1989, and prior to April 1, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court less earned time under ORS 421.121;

(B) Committed on or after April 1, 1995 and prior to June 30, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court; or

(C) Committed on or after June 30, 1995, shall not be eligible for short-term transitional leave until the person has served the minimum incarceration term imposed by the court and the Board of Parole and Post-Prison Supervision finds by unanimous vote that the person is likely to be rehabilitated and issues a Board Action form setting a release date.

(i) Any person sentenced under the provisions of ORS 137.700 or ORS 137.707 for a crime:

(A) Committed prior to December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term; or

(B) Committed on or after December 5, 1996, shall not be allowed short-term transitional leave until completion of the mandatory minimum incarceration term and only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(j) If otherwise eligible under Oregon law, any person sentenced for a crime committed on or after December 5, 1996, shall be eligible for short-term transitional leave only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(2) Criteria: In order for an inmate to be approved for any form of leave, he/she must meet the following criteria:

(a) Be classified as minimum custody in accordance with the Department of Corrections rule on Classification (Inmate) (OAR 291-104);

(b) Assessed by staff to have a limited risk to re-offend, or otherwise not be a threat to the community;

(c) Minimal potential for adverse community reactions;

(d) Acceptable performance in the completion of correctional programming to address assessed needs and reduce the risk of future criminal behavior;

(e) Be in suitable physical and mental condition; and

(g) Institution conduct and program compliance warrants leave consideration.

(3) The supervising community corrections office must review and approve any transitional leave release plan.

(4) The district attorney's office in the sentencing jurisdiction shall be consulted regarding any transitional leave release plan, and objections to a proposed early release shall be taken into consideration.

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

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

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0030

Approval of Short-Term Transitional Leaves

(1) Short-term transitional leaves may be granted from any Department of Corrections facility with proper approval of the releasing authority.

(2) Application:

(a) The inmate may initiate the short-term transitional leave process by filling out the appropriate Short-Term Transitional Leave Plan and submitting it to the assigned correctional counselor or designated staff member.

(b) Short-term transitional leave may be granted for the purpose of obtaining employment, education, treatment, housing, or other transitional opportunity in the community to which the inmate will be released, and that a leave of up to 30 days is an essential part of the inmate's successful reintegration into the community. The need for short-term transitional leave shall be documented in the release plans submitted to the Board of Parole and Post-Prison Supervision.

(c) Correctional counselors or designated staff members will verify the information given and submit the leave recommendation and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority or designee may grant a short-term transitional leave up to 30 days prior to the inmate's release to post-prison supervision to allow an inmate to participate in an approved release plan.

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(b) Transitional leaves allowing travel outside the boundaries of the State of Oregon must be authorized in advance through Interstate Compact transfer procedures. Prior to the inmate leaving the state, the assigned counselor or designated staff member will notify the local authorities of the inmate's proposed presence in the area including address and dates.

(c) No short-term transitional leave will be granted to allow the inmate to reside with a Department of Corrections employee, contractor, or volunteer unless the inmate is an immediate family member of the employee pursuant to ORS 144.108(3)(b).

(d) The releasing authority or designee will stipulate the special conditions necessary to enhance community safety.

(e) Inmates without resources may apply for subsidy monies in accordance with the Department of Corrections rule on Release Subsidies (OAR 291-157).

(4) Release Conditions:

(a) Obey all laws: state, local, and federal.

(b) Conform to reasonable expectations of acceptable community behavior.

(c) Abstain from the use of alcohol, any illegal drug, or other dangerous substance and submit to drug urinalysis or breathalyzer testing as directed.

(d) Submit to search of person, automobile or residence by Department of Corrections, law enforcement, or community corrections agents.

(e) Return immediately to any designated Department of Corrections facility when so directed by the releasing authority or designee.

(f) Conform to the stipulations of a written transitional release plan and/or post-prison supervision release plan.

(g) Conform to any additional special conditions imposed by the releasing authority or designee.

(h) All expenses shall be borne by the inmate unless otherwise specifically authorized. Inmates placed on short-term transitional leave are responsible for costs of their own medical care.

(5) Community Corrections Supervision:

(a) When an inmate has been approved for a transitional leave, the inmate report (release plan and related file material) will be made available to the proposed community corrections office providing supervision at least five working days prior to the release of the inmate.

(b) Assigned Community Corrections staff may, when deemed necessary, request the releasing authority modify an approved release plan or leave stipulation with written notice to the inmate and documentation to the file. Within ten days after the releasing authority's approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes to his/her release plan or stipulation.

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

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

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0036

Violations of Short Term Transitional Leaves

(1) Sanctions may be imposed at the local level if:

(A) The supervising officer determines that the violation can appropriately be addressed; and

(B) The inmate admits the violation and accepts the sanction.

(2) A Misconduct Report shall be submitted any time a violation of short-term transitional leave may result in revocation of that leave. In such instances it shall be the responsibility of the supervising officer to report the alleged violation in writing to the releasing authority within 5 working days of the infraction. The releasing authority shall ensure that a misconduct report is submitted in accordance with the department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105)

(3) When a misconduct report is submitted, a hearing shall be conducted in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). An inmate found in violation of a rule of prohibited conduct while he/she is on transitional leave, may be subject to a revocation of the leave and be returned to a Department of Corrections facility (OAR 291-105-0069(1)(e)) and may be subject to other sanctions in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

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

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

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0040

Supervised Trips

(1) Supervised trips may be granted from any Department of Corrections facilities with proper approval of the releasing authority.

(2) Application:

(a) An inmate may apply for a supervised trip by directing an appropriate supervised trip application to his/her assigned counselor or designated staff member. Except for the purpose of attending a private viewing before or after a funeral or bedside visits, these applications should be submitted no more than fifteen and no less than seven working days in advance of the supervised trip date.

(b) The counselor or designated staff member will verify the information and submit the application and other relevant information to the releasing authority.

(3) Approval:

(a) The releasing authority may grant supervised trips to inmates for the following reasons:

(A) To allow the inmate to visit a seriously ill relative with whom a meaningful relationship exists;

(B) To attend a private viewing before or after the funeral of an immediate family member;

(C) To allow the inmate to obtain medical and/or dental services not provided by the facility; and

(D) For other reasons consistent with accepted correctional and/or rehabilitation practices.

(b) The releasing authority may approve supervised trips for those inmates who do not meet the eligibility criteria for emergency leaves as specified in these rules.

(A) No inmate of the Department of Corrections will be allowed a supervised trip unless the supervision is provided by a Department of Corrections employee or a person authorized to supervise or maintain custody of persons outside of correctional facilities.

(B) No supervised trips will be authorized for social reasons.

(C) Supervised trips may be authorized for civic purposes (i.e., work projects or speaking engagements relative to crime prevention or substance abuse).

(D) Approval for all proposed supervised trips for club projects must be requested of the functional unit manager in writing and staff must verify the request.

(c) Inmates approved for supervised trips will fall into two categories:

(A) When inmates judged by staff to be a threat to the community and/or themselves are granted supervised trips, appropriate protective restraints and escorts will be used.

(B) Inmates who are not considered a threat to the community or themselves must meet the following criteria:

(i) Inmate is in suitable physical and mental condition consistent with the reason for the trip;

(ii) Programming and interests are consistent with trip purposes; and

(iii) Depending upon the reason for the trip, the inmate has demonstrated a level of performance during incarceration indicating a reasonable expectation that the supervised trip will be successful.

(4) Expenses: Unless specific arrangements are approved in advance by the releasing authority, the inmate will pay for any expenses incurred for supervised trips.

(5) Violation:

(a) Failure to return from supervised trip shall be an escape. A warrant will be issued in accordance with the department's policy on Escape Notification.

(b) All rules of prohibited conduct cited in the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) apply to inmates on supervised trips.

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

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

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

291-063-0050

Emergency Leaves

Emergency leaves may be granted by any Department of Corrections facility with proper approval of the releasing authority. The same eligibility requirements that apply to short-term transitional leave in OAR 291-063-0016 also apply to emergency leave.

ADMINISTRATIVE RULES

(1) Application:

(a) The inmate may apply for a leave by filling out an appropriate application and submitting it to the assigned counselor or designated staff member.

(b) Applications must be submitted in sufficient time for staff to review and verify the information provided.

(c) Counselors or designated staff members will verify the information given and submit the necessary document and/or other relevant information for the releasing authority.

(2) Approval:

(a) Emergency Leaves: Any releasing authority may grant emergency leaves for the following reasons:

(A) To visit a terminally ill family member if the member lives within the state.

(B) To visit a gravely ill child of the inmate if the child lives within the state.

(C) To attend the funeral or view the remains of an immediate family member if in the state.

(b) The duration of the emergency leave shall be restricted to only the time necessary to accomplish the purpose of the leave.

(c) Emergency leave will not be granted in the company of a Department of Corrections employee or volunteer unless the inmate is an immediate family member of the employee or volunteer.

(d) In approving an emergency leave, the releasing authority will stipulate conditions of release necessary for approval of the emergency leave.

(e) Inmates requesting non-emergency medical treatment while on emergency leave shall return to the releasing facility for examination and treatment if necessary.

(3) Expenses: Funds to cover expenses of any leave must be available in the inmate's account before leave may be granted, unless otherwise specifically authorized by the releasing authority. Any funds received designated for this purpose will not be used to reduce any indebtedness.

(4) Community Corrections Monitoring: When an emergency leave exceeds five days, the releasing authority or his/her designee must arrange with community corrections staff for monitoring of the inmate while the inmate is in the community. Upon departure from the facility, an EPR shall be initiated by the releasing facility.

(a) Assigned Community Corrections staff may, when deemed necessary, request that the releasing authority modify leave stipulations or release plan with written prior notice to the inmate and documentation to the file.

(b) Within ten days of the releasing authority's approval to modify, the inmate may appeal to the Assistant Director of Institutions the changes in leave stipulations or release plan.

(5) Emergency Leave Violations: Violations of the conditions or stipulations of an emergency leave constitute the basis for disciplinary action which will be handled in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(a) Community Corrections staff have the authority to detain any inmate on emergency leave status and lodge him/her in a local jail pending investigation and/or return to a Department of Corrections intake facility.

(b) In the event the decision is made to remove an inmate from emergency leave status and return him/her to the releasing facility, the responsibility for return will be as follows:

(A) Inmates who have been apprehended out-of-state will be returned to a Department of Corrections intake facility.

(B) Inmates who have been removed from emergency leaves will be returned to the releasing facility.

(C) If the inmate fails to report as instructed, the supervising officer will immediately investigate the circumstances and report the incident to the releasing authority or designee in accordance with the Department of Corrections policy on Unusual Incident Reporting Process.

(D) If the inmate fails to report or return to the releasing facility as instructed, a warrant will be issued in accordance with the Department of Corrections policy on Escape Notification.

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

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

Hist.: CD 1-1990, f. & cert. ef. 1-29-90; CD 21-1990(Temp), f. & cert. ef. 11-1-90; CD 11-1991, f. & cert. ef. 4-24-91; DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03, DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03, Renumbered from 291-063-0025

291-063-0060

Warrants

Issuing Warrants:

(1) Supervising officers will notify the releasing authority or designee regarding an inmate's unauthorized departure whenever an inmate makes him/herself unavailable for supervision.

(2) The releasing authority or designee will ensure a warrant is issued in accordance with the Department of Corrections policy on Escape Notification, if the circumstances and facts so justify.

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

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

Hist.: DOC 8-2003(Temp), f. & cert. ef. 4-17-03 thru 10-13-03; DOC 15-2003, f. 10-3-03, cert. ef. 10-4-03

Department of Fish and Wildlife Chapter 635

Adm. Order No.: DFW 95-2003(Temp)

Filed with Sec. of State: 9-17-2003

Certified to be Effective: 9-17-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Amend rule to establish non-Indian commercial fishing seasons in the mainstem Columbia River. Amendments consistent with Columbia River Compact action via Telephone Conference of September 17, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0060

Late Fall Salmon Season

Salmon and sturgeon may be taken for commercial purposes in the Columbia River in all of Zones 1-5 (described in OAR 635-042-0001). The Elokomin-A, Abernathy Creek, Conlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect. The open fishing periods are 7:00 p.m., Wednesday, September 17 to 7:00 p.m., Friday, September 19, 2003, and 6:00 p.m., Sunday, September 21 to 6:00 p.m., Monday, September 22, 2003.

(1) Gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size upstream of the lower Zone 4 Boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore and no minimum mesh size and 9-3/4-inch maximum mesh size restriction downstream of the lower Zone 4 Boundary.

(2) A maximum of three white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The weekly sturgeon limit applies to the Columbia River mainstem fisheries in the aggregate.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 40-1979, f. & cert. ef. 9-10-79; FWC 45-1979(Temp), f. & cert. ef. 9-21-79; FWC 52-1979(Temp), f. & cert. ef. 11-2-79; FWC 48-1980(Temp), f. & cert. ef. 9-19-80; FWC 51-1980(Temp), f. & cert. ef. 9-22-80; FWC 55-1980(Temp), f. & cert. ef. 9-26-80; FWC 56-1980(Temp), f. & cert. ef. 9-29-80; FWC 58-1980(Temp), f. & cert. ef. 10-17-80; FWC 37-1981(Temp), f. & cert. ef. 9-24-81; FWC 38-1981(Temp), f. & cert. ef. 9-29-81; FWC 69-1982(Temp), f. & cert. ef. 9-30-82; FWC 72-1982(Temp), f. & cert. ef. 10-20-82; FWC 56-1983(Temp), f. & cert. ef. 10-5-83; FWC 54-1984(Temp), f. & cert. ef. 9-10-84; FWC 59-1984(Temp), f. & cert. ef. 9-18-84; FWC 66-1984(Temp), f. & cert. ef. 9-26-84; FWC 68-1984(Temp), f. & cert. ef. 10-2-84; FWC 58-1985(Temp), f. & cert. ef. 9-13-85; FWC 62-1985(Temp), f. & cert. ef. 9-24-85; FWC 66-1985(Temp), f. & cert. ef. 10-11-85; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 64-1986(Temp), f. & cert. ef. 10-3-86; FWC 67-1986(Temp), f. & cert. ef. 10-17-86; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-11-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 91-1987(Temp), f. & cert. ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef.

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9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp) f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03

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Rules Amended: 635-007-0501, 635-007-0505

Rules Repealed: 635-007-0510, 635-007-0515, 635-007-0521, 635-007-0522, 635-007-0523, 635-007-0525, 635-007-0526, 635-007-0527, 635-007-0528, 635-007-0529, 635-007-0536, 635-007-0537, 635-007-0538, 635-007-0800, 635-007-0805, 635-007-0810, 635-007-0815, 635-007-0817

Subject: Adopt rules to implement the Native Fish Conservation Policy.

Rules Coordinator: Mike Lueck — (503) 947-6033

635-007-0501

Definitions

As used in this Division and Division 40:

(1) "Anadromous" means fish which migrate from saltwater to freshwater for spawning.

(2) "Aquaria species" means those fish commonly sold in the pet store trade for use in home aquaria. "Aquaria" are any tanks, pools, ponds, bowls or other containers intended for and capable of holding or maintaining live fish and from which there is no outfall to any waters of this state.

(3) "Aquatic habitat" means the waters which support fish or other organisms which live in water and which includes the adjacent land area and vegetation (riparian habitat) that provides shade, food, and/or protection for those organisms.

(4) "Area" means a stream, a lake, a group of streams or lakes, or a portion of the ocean managed for or with a common stock of fish, or for protection of a stock or stocks of fish.

(5) "Biological requirements" refers to those environmental conditions such as water quality, water quantity, and available food that are necessary for fish to grow and/or reproduce.

(6) "Brood stock" means a group of fish, generally from the same population, that are held and eventually artificially spawned to provide a source of fertilized eggs for hatchery programs.

(7) "Brood year" means the year in which more than fifty percent of the adults in a population of fish spawn.

(8) "Commission" means the Oregon Fish and Wildlife Commission.

(9) "Compensation" means activities that replace fish, or their habitat lost through development or other activities.

(10) "Conservation" means managing for sustainability of native fish so that present and future generations may enjoy their ecological, economic, recreational, and aesthetic benefits.

(11) "Cooperative Salmon Hatchery Project" means a fish propagation enhancement project authorized under OAR 635-009-0400 through 635-009-0455.

(12) "Department" means the Oregon Department of Fish and Wildlife.

(13) "Depressed" means below established goal such as a fish production or escapement goal shown in a management plan or below the level of production or escapement that the Commission determines to be an optimal level.

(14) "Disease" means problems caused by infectious agents, such as parasites or pests, and by other conditions that impair the performance of the body or one of its parts.

(15) "Disease agent" means an organism that is detrimental to fish.

(16) "Endemic disease" means a disease commonly detected in a population of naturally produced native fish.

(17) "Enhancement" means management activities including rehabilitation and supplementation that increase fish production beyond the existing levels.

(18) "Export" means to transport any fish or eggs out of state.

(19) "Facility Manager" means hatchery manager, owner or person responsible for compliance with these rules.

(20) "Fish" means all game fish as defined by ORS 496.009 and food fish as defined by ORS 506.036, which live or could live in the waters of this state.

(21) "Fish Hatchery" means a facility at which adult broodstock are held, or where eggs are collected and incubated, or where eggs are hatched, or where fish are reared.

(22) "Fry" means fish which have recently hatched and have not fed.

(23) "Foreign" means fish which originate through human intervention from a different population.

(24) "Genetic engineering" means the introduction of genetic material into an organism's genotype through molecular genetics techniques.

(25) "Genetic Resources" means the kind and frequency of genes found within a population or collection of populations.

(26) "Genotype" means the kinds of and the combination of genes possessed by an individual.

(27) "Goal" means a statement of intent which leads to policy, rules, and operation plans for implementation of a Department Program.

(28) "Hatchery produced fish" means a fish incubated or reared under artificial conditions for at least a portion of its life.

(29) "Hatchery production system" means the fish, facilities and operations associated with collecting, spawning, incubating, rearing, distributing and releasing hatchery produced fish.

(30) "Hatchery Program" means a program in which a specified hatchery population is planted in a specified geographical location.

(31) "Hold fish" means to capture and/or remove live fish in or from the waters of this state and/or maintain live fish in captivity but does not include fish held live for less than one day for examination and release without transfer from the waters where caught or collected.

(32) "Import" means to transport fish or eggs into the state.

(33) "Indigenous" means descended from a population that is believed to have been present in the same geographical area prior to the year 1800 or that resulted from a natural colonization from another indigenous population.

(34) "Marine species" means those fish found in the ocean or the saline or brackish water of estuaries or bays along the coast, but not generally found in freshwater streams.

(35) "Mitigation" means to lessen the impact of activities or events that cause fish or habitat loss.

(36) "Native fish" means indigenous to Oregon, not introduced. This includes both naturally produced and hatchery produced fish.

(37) "Naturally produced" means fish that reproduce and complete their full life cycle in natural habitats.

(38) "Naturally Spawned" means fish produced in the natural environment as the result of natural reproduction.

(39) "Natural production system" means the fish and environment associated with completing the life-cycles of naturally produced fish populations.

(40) "Nongame Fish" means any fish other than those specifically defined as game fish in ORS 496.009.

(41) "Operation plan" means an action plan developed by the Department that generally addresses how the objectives in a management plan for harvest or production of a species shall be attained.

(42) "Optimum" means the desired fish production level as stated in management plans or set by specific Commission action.

(43) "Phenotype" means any characteristic of an organism that is determined by the organism's genes, genotype and the environment.

(44) "Policy" means mandatory direction or constraints that provide the framework for Department programs.

(45) "Population" means a group of fish originating and reproducing in a particular area at a particular time which do not interbreed to any substantial degree with any other group reproducing in a different area or in the same area at a different time.

(46) "Presmolt" means a juvenile anadromous fish which has fed and reared but is not yet a smolt.

(47) "Production" means the number or pounds of fish raised in a hatchery or resulting from natural spawning and rearing in freshwater, estuarine, or ocean habitats; also used in reference to harvest.

(48) "Propagation of fish" means the spawning, incubating, and/or rearing of fish by a human for sale, release or other uses.

(49) "Random mortality" means fish mortality that generally does not affect the genotypic or phenotypic traits of fish populations.

(50) "Rehabilitation" means short-term management actions which may include fish stocking, habitat improvement, harvest management, or

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other work, that restore fish populations depressed by natural or man-made events.

(51) "Release" means liberating fish or allowing fish to move into waters of the state.

(52) "Risk" means the extent to which, a management practice may reduce population productivity or cause an undesirable change in genetic characteristics of a population.

(53) "Sensitive" means those fishes that have been designated for special consideration pursuant to OAR 635-100-0040.

(54) "Selective mortality" means fish mortality that generally affects the genotypic and phenotypic traits of fish populations.

(55) "Serious depletion" means a significant likelihood that the species management unit will become threatened or endangered under either the state or federal Endangered Species Act.

(56) "Significant or substantial" means a condition of sufficient magnitude such that it is likely to influence continued natural production at optimum levels.

(57) "Smolt" means a juvenile salmon or trout that is capable of initiating a seaward migration and is capable of living in the sea.

(58) "Species" means any group or population that interbreeds and is substantially reproductively isolated.

(59) "Species hybridization" means the crossing of two different taxonomic species.

(60) "Species management unit" means a collection of populations from a common geographic region that share similar genetic and ecological characteristics.

(61) "STEP" means Salmon Trout Enhancement Program.

(62) "Stock" means an aggregation for management purposes of fish populations which typically share common characteristics such as life histories, migration patterns, or habitats.

(63) "Stray" means a hatchery fish that spawns naturally in a location different from the location intended when the fish was stocked.

(64) "Supplementation" means continued planting of fish to maintain or increase fish abundance in areas where natural production is insufficient to meet management objectives.

(65) "Sustainable" means persistence over time, that is to say the ability of a population or a species management unit to maintain temporal, spatial, genetic, and ecological coherence while withstanding demographic, environmental, and genetic variation and catastrophic events from natural and human induced causes.

(66) "Taxonomic species" means a group of fish that have been assigned a scientific name in the form of genus and species by the American Fisheries Society Committee on Common and Scientific Names of Fishes.

(67) "Transfer" means moving fish from one facility to another or to waters of the state.

(68) "Transgenic fish" means fish that have genes or groups of genes that have been transferred from another organism through the process of genetic engineering.

(69) "Wild fish" means any naturally spawned fish in the taxonomic classes, Agnatha, Chondrichthyes, and Osteichthyes, belonging to an indigenous population.

Stat. Auth.: ORS 496.012, ORS 496.138

Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455

Hist.: FWC 25-1984, f. 6-21-84, ef. 7-1-84; FWC 6-1990, f. & cert. ef. 1-29-90; FWC 2-1992, f. 1-28-92, cert. ef. 2-1-92; FWC 37-1992, f. 5-29-92, cert. ef. 6-1-92; FWC 15-1997, f. & cert. ef. 3-10-97; DFW 131-2002, f. & cert. ef. 11-22-02; DFW 65-2003, f. & cert. ef. 7-17-03; DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0505

Implementing the Native Fish Conservation Policy

(1) Conservation Plans: The Native Fish Conservation Policy shall be implemented primarily through conservation plans developed for individual species management units and adopted by the Commission. Conservation plans shall illustrate a range of options for recovery strategies, fisheries and the responsible use of hatchery produced fish and may include subbasin plans, NOAA Fisheries recovery plans, and other plans that address the elements contained in subsections (5), (6), (7), and (8) of this rule.

(2) Conservation plans shall be based on the concept that locally adapted populations provide the best foundation for maintaining and restoring sustainable naturally produced native fish.

(3) Planning and implementation shall proceed incrementally, consistent with available funding, according to priorities established by the Department with collaboration and input from affected tribal governments, management partners, and the public. The Department shall place highest

priority on developing conservation plans for species management units having one or more of the following characteristics:

(a) Contain fish that are listed under the federal or state Endangered Species Act or as a state sensitive species or contain naturally produced native fish populations that demonstrate continued decline or extirpation from a significant portion of their range;

(b) Contain new hatchery programs or existing hatchery programs that need substantial change;

(c) Have high public interest or economic or other impact on the local community; or

(d) Where the Departmental resources available for the planning and implementation efforts will likely lead to a significant increase in naturally produced native fish.

(4) The Department shall develop and maintain a statewide list of species management units and their constituent populations, including appropriate hatchery produced fish, for native fish belonging to the genus *Oncorhynchus*. Lists for other taxonomic groups will be developed as prioritized pursuant to subsection (3) of this rule.

Plan Contents

(5) Native fish conservation plans will address the following elements:

(a) Identification of the species management unit and constituent populations pursuant to subsection (4) of this rule;

(b) Description of the desired biological status relative to biological attributes contained in subsection (6) of this rule;

(c) Description of current status relative to biological attributes contained in subsection (6) of this rule;

(d) An assessment of the primary factors causing the gap between current and desired status, if there is a gap, and identify factors that can be managed;

(e) A description of the short- and long-term management strategies most likely to address the primary limiting factors;

(f) A description of monitoring, evaluation, and research necessary to gauge the success of corrective strategies and resolve uncertainties;

(g) A process for modifying corrective strategies based upon the monitoring, evaluation and research results;

(h) Measurable criteria indicating significant deterioration in status, triggering plan modification to begin or expand recovery actions;

(i) Annual and long-term reporting requirements necessary to document data, departures from the plan, and evaluations necessary for adaptive management, in a format available to the public;

(j) A description of potential impacts to other native fish species.

(6) Measurable Criteria: Each native fish conservation plan shall include specific, measurable criteria of species performance. Depending upon available information, criteria will be developed for the following primary biological attributes:

(a) Distribution of populations within unit;

(b) Adult fish abundance for constituent populations;

(c) Within and among population diversity;

(d) Population connectivity;

(e) Survival rate to each critical life history stage;

(f) Standardized rate of population growth for constituent natural populations;

(g) Forecast likelihood of species management unit persistence in the near and long terms.

(7) Conservation plans shall also contain secondary criteria such as migration timing, spawn timing, age structure, sex ratios, stray rates, habitat complexity, artificial barriers, and harvest rates. These secondary criteria shall be used to help assess and link the effectiveness of management actions to address limiting factors as they affect the primary biological attributes described in subsection (6).

(8) Process for Developing Plans: When developing fish conservation plans, delineating naturally reproducing populations, and defining species management unit borders, the Department shall:

(a) Use the most up-to-date and reliable scientific information and, as appropriate, convene an ad hoc team of scientists for collaboration and assistance;

(b) Solicit the assistance and independent peer review by scientists including but not limited to the Independent Multidisciplinary Science Team and university fishery management programs; and

(c) Seek input and involvement from appropriate tribal, state, local, and federal management partners, university programs, and the public. Affected tribal governments shall be consulted in the development and implementation of conservation plans.

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(9) Interim Measures: Until an individual conservation plan is completed for a species management unit, the Department shall continue to manage native fish in that unit according to existing statutes, administrative rules, Commission directives and binding agreements. In addition, the Department shall manage such populations in a manner that will avoid addition of new species to the State "Sensitive Species" list. Development of conservation plans shall be governed by this Native Fish Conservation Policy. Implementation of those plans shall be as specified in the plan.

(10) Status Reports: The Department shall prepare and present to the Commission an Oregon native fish species status report at timely intervals adequate to track progress, or at the request of the Commission or Director. This report shall include:

- (a) Identification of all existing native fish conservation plans;
- (b) Status assessments addressing biological attributes related to species performance as described in subsection (6) of this rule and the methods and assumptions used to make these assessments, including those used because of missing or insufficient data; and
- (c) Appropriate modifications to the list of populations and species management units, and additional research needs.

(11) Cooperative Recovery Planning: In implementing the Native Fish Conservation Policy and consistent with the Oregon Plan, the Department will encourage the development of complementary policies and plans by other state and federal regulatory agencies and tribes that supports a unified conservation effort.

(12) The Commission shall revise existing fish management basin plans as necessary to support the implementation of Native Fish Conservation Policy conservation plans. The Commission shall make appropriate revisions to affected fish management basin plans when the Commission approves the corresponding conservation plan. Pending approval of a specific conservation plan, the conservation of native fish populations shall be guided by fish management basin plans. However, if adherence to such basin plans will likely prevent the affected populations from meeting the Native Fish Conservation Policy interim criteria described in 635-007-0507, then the interim criteria will be used by the Department to guide the conservation of native fish populations. For those populations without basin plans, the Department shall use the Native Fish Conservation Policy interim criteria described in 635-007-0507 to guide the conservation of such populations.

Stat. Auth.: ORS 496.012 & ORS 496.138
Stats. Implemented: ORS 496.171, .172, .176, .182, 430, 435, 445, 450 & 455
Hist.: DFW 131-2002, f. & cert. ef. 11-22-02; DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0507 Interim Criteria

As temporary guidance to ensure the conservation of native fish prior to the completion of conservation plans, the Department shall use the interim criteria described in this rule. Once a conservation plan is approved, these interim criteria will no longer apply to the species management unit. In addition, for state endangered species covered by an associated endangered species management plan, as described in OAR 635-100-0140, these interim criteria do not apply.

(1) Existing Populations – No more than 20% of the historical populations within the species management unit have become extinct and no natural population within the species management unit in existence as of 2003 shall be lost in the future. Further, if the historical species management unit contained more than one race (e.g., summer and winter steelhead), then each race must be represented by at least 2 populations. For at least 80% of the existing populations within each species management unit or for selected index populations identified in the stock status report as described in 635-007-0505(10), interim criteria (2) through (6) must be exceeded in at least 3 years during the most recent 5-year time interval.

(2) Habitat Use Distribution – Naturally produced members of a population must occupy at least 50% of a population's historic habitat.

(3) Abundance – The number of naturally produced spawners must be greater than 25% of the average abundance of naturally produced spawners over the most recent 30 year time period.

(4) Productivity – In years when the total spawner abundance is less than the average abundance of naturally produced spawners over the past 30 years, then the rate of population increase shall be at least 1.2 adult offspring per parent. Where offspring are defined as naturally produced adults that survive to spawn and parents are defined as those adults of both natural plus hatchery origin that spawned and collectively produced the observed offspring.

(5) Reproductive Independence – At least 90% of the spawners within a population must be naturally produced and not hatchery produced fish, unless the department determines the hatchery produced fish are being used

in a short-term experimental program to help restore a population in its natural habitat or otherwise directed by a court order.

(6) Hybridization – The occurrence of individuals that are the product of deleterious hybridization with species that are non-native to the basin in which they are found must be rare or nonexistent.

Stat. Auth.: ORS 496.012, ORS 496.138
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0509 Implementation of Interim Criteria

(1) Species management units that do not meet, or that the department determines are unlikely to meet in the near future, at least four of the interim criteria specified in 635-007-0507 shall be classified as "at risk". Species management units that meet four but no more than five of the interim criteria specified in 635-007-0507 shall be classified as "potentially at risk". Species management units that meet all interim criteria specified in 635-007-0507 shall be classified as "not at risk".

(2) For those species management units classified as potentially at risk, the Department shall document this finding in the native fish species status report as described in 635-007-0505(10) and give an elevated priority to the species management unit with respect to development of statewide monitoring strategies and conservation plan development.

(3) For those species management units classified as at risk, the Department, in addition to actions described in 635-007-0509(2), shall implement, within the Department's statutory authority, fish management changes likely to improve the conservation status of the conservation management unit, based upon a documented evaluation of the primary factors impacting fish within the species management unit. The Department shall respond as soon as possible to an improvement in the conservation status of the species management unit with a reclassification of the unit consistent with the guidance provided in 635-007-0509(1).

(4) In applying interim criteria, the Department recognizes that data may not be available to assess all populations belonging to a species management unit. The Department also recognizes that even when data for a population are available they may not be of sufficient detail or collected over a sufficient time period. In these circumstances, to determine if a population meets the interim criteria, it will be necessary to make inferences from those populations within the species management unit for which sufficient information is available or by using alternative qualitative and quantitative information and analyses to approximate interim criteria metrics. In evaluation of such species management units for conformity to the interim criteria, the Department shall document the assumptions and inferences associated in making this evaluation.

Stat. Auth.: ORS 496.012, ORS 496.138
Stats. Implemented: ORS 496.171, ORS 496.172, ORS 496.176, ORS 496.182, ORS 496.430, ORS 496.435, ORS 496.445, ORS 496.450, ORS 496.455
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0960 Purpose

The purpose of the Fish Health Management Policy is to describe measures that minimize the impact of fish diseases on the state's fish resources. This policy applies to all Department hatchery operations and programs, including Salmon and Trout Enhancement Program (STEP), fish propagation projects (OAR 635-009-0090 through 635-009-0240), Cooperative Salmon Hatchery Programs (OAR 635-009-0400 through 635-009-0455), and to all other persons importing, transporting, releasing, or rearing non-aquaria species in this state, including, but not limited to persons operating private fish rearing facilities and research facilities.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0965 Policy

The Department must restrict the introduction, amplification, and dissemination of disease agents in hatchery produced fish (hatchery produced stock or naturally-produced native stock) and in natural environments by controlling egg and fish movements and by prescribing a variety of preventative, therapeutic, and disinfecting strategies to control the spread of disease agents in fish populations of the state. This entails inspecting and detecting disease agents from fish in all hatchery facilities and natural environments. It also entails containing and treating disease agents to minimize impacts on fish populations.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

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635-007-0970

Fish Disease and Pathogen Categories

(1) "Category I" or "Emergency" fish disease agents are those for which there is no known treatment and that have not been determined to occur in Oregon as of September 1, 2003. Disease agents in this category are the European strain of Viral Hemorrhagic Septicemia (VHS), *Onchorhynchus masou virus* (OMV) and Channel Catfish Virus (CCV). Disease agents may be added to this category as they are identified.

(2) "Category II" or "Certifiable" disease agents can be highly contagious, may cause catastrophic losses and do not have a known cure. Disease agents in this category are the North American strain of Viral Hemorrhagic Septicemia (VHS), Infectious Hematopoietic Necrosis Virus (IHN), Infectious Pancreatic Necrosis Virus (IPN), Infectious Salmon Anemia (ISA), Spring Viremia of Carp (SVC), *Myxobolus cerebralis* (whirling disease), and *Piscirickettsia salmonis*. Disease agents may be added to this category as they are identified in state waters or may be moved to a more or less strict category as disease concerns change.

(3) "Category III" or "Reportable" disease agents may be enzootic in populations or watersheds but are not necessarily of such concern as to prevent all transfer or release of fish. This category includes drug resistant strains of fish disease agents otherwise falling in Category IV. Disease agents in this category are Erythrocytic Inclusion Body Syndrome (EIBS virus), Viral Erythrocytic Necrosis Virus (VEN), sturgeon iridovirus, *Renibacterium salmoninarum* (bacterial kidney disease), *Flavobacterium psychrophilum* (cold water disease), *Aeromonas salmonicida* (furunculosis disease), *Yersinia ruckeri* (enteric red mouth disease), drug resistant strains of bacterial disease agents, *Tetracapsuloides bryosalmonae* (Proliferative Kidney Disease), *Ceratomyxa shasta* (ceratomyxosis), and *Nucleospora salmonis*. Disease agents may be added to this category as they are identified in state waters or may be moved to a more or less strict category as disease concerns change.

(4) "Category IV" or "Historical" disease agents are those associated with a particular area, water body, or facility either in Oregon or in another state or country in which fish are raised or where a disease agent is associated with an intermediate non-fish host. This category also includes Category I through III diseases if previously found at a particular facility but no longer occurring there. Disease agents in this category are flatworms, round worms, tapeworms, ciliated and flagellated parasites, myxosporean (other than *Myxobolus cerebralis*, *Tetracapsuloides bryosalmonae* and *Ceratomyxa shasta*), microsporidian parasites (other than *Nucleospora salmonis*), fungal agents, bacterial agents, transient viral agents, and other classes of infectious agents not previously listed. Disease agents may be added to this category as they are identified in state waters or may be moved to a stricter category as disease concerns change.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0975

Import, Export or Transfer of Pathogens and Diseases

(1) The Department may allow a transfer or release fish if the disease agent has not occurred within the past three years of fish rearing, fish are appropriately treated to prevent disease transmission before transfer, or if the disease agent also occurs in the receiving waters.

(2) No person may import, export, or transfer susceptible fish from a site or area where a Category I disease agent has been found until the Department has determined that the site or area is acceptable and has issued a valid Fish Transport Permit pursuant to OAR 635-007-0600. One of the Department's fish health specialists may make the required determination and provide a memorandum to Fish Division.

(3) The Department may authorize a person to import, export, or transfer fish that have or are from a station or area with a recent or continuing history of Category II disease agent by issuing a Fish Transport Permit. The Department must restrict the import, transfer, or release of fish from facilities in which Category II disease agents have been detected within the life cycle of a fish species or that have not been eliminated by effective treatment to only those areas where that disease is already endemic. The Department must restrict the transfer or release of fish that may expand the geographic distribution of disease agents in this category.

(4) The Department must restrict the import, transfer, and release of fish from facilities in which Category III disease agents have been detected within the life cycle of a fish species or that have not been eliminated by effective treatment to only those areas where that disease is already endemic.

(5) Fish from facilities with a history of, but no current occurrence of Category I through III diseases will be treated as if they were in Category

IV. The Department may issue a Fish Transport Permit for transfer or release of fish with the presence of disease agents in this category if the disease agent has not occurred within the past three years of fish rearing, the fish are appropriately treated for disease before transfer, or the disease agent occurs in the receiving waters. The Department may deny a Fish Transport Permit to transfer or import fish from facilities where Category III and IV diseases agents have been identified until acceptable treatment or improved history record (three years without disease detection) requirements have been met through appropriate fish health examinations.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0980

Additional Reference Material for Fish Disease Management

Guidelines for inspection of fish for diseases are found in the Integrated Hatchery Operation Team Policies and Procedures for Columbia Basin Anadromous Salmonid Hatcheries (IHOT 1995), American Fisheries Society Fish Health Blue Book (AFS-FHS Suggested Regulations Manual for the detection and identification of certain finfish and shellfish pathogens. 5th ed., 2002, Fish Health Section, American Fisheries Society), the inspection manual of this reference may be found at <http://fisheries.fws.gov/FHC/handbook.htm>, the Fish Health Protection Regulations Manual of Compliance of Canada, 1984 and the Pacific Northwest Fish Health Protection Committee Model Comprehensive Fish Health Protection Program (September 1989), <http://www.efw.bpa.gov/Environment/EW/EWP/DOCS/REPORTS/HATCHERY/A60629.pdf>

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0985

Inspection and Detection of Disease Agents at the Department's Facilities

(1) The Facility Manager must ensure that inspections are performed on all fish stocks no more than six weeks before fish are released or transferred to other locations in the state and on any fish to be imported into the state. The Department's Fish Health Services must maintain a database of fish health examination results.

(2) The Facility Manager must complete a Fish Liberation Report for the import, export, or transfer of live fish or eggs in Oregon before moving any fish or eggs.

(3) The Facility Manager must ensure regular monitoring of all fish by a Department fish health specialist. Appropriate fish tissues must be screened for the presence of parasitic and bacterial agents and viral examinations of appropriate organs and lesions of moribund or dead fish depending on disease signs on affected fish.

(4) Examinations for *Myxobolus cerebralis*, agent of whirling disease, must be conducted annually on 60 salmonid fish held for a minimum of 180 days at each facility. In cases where multiple water supplies exist, fish reared in each supply must be sampled.

(5) The Facility Manager must direct the treatment or destruction of fish infected with any disease agent, whether listed in these rules or not, that may adversely affect the health of the fish of this state. The Department's Fish Division will determine whether the affected fish must be destroyed.

(6) If fish loss exceeds 0.1 percent per day over five consecutive days in any rearing or incubation container, then the Facility Manager must:

(a) Have an examination promptly performed on live and dead fish from each pond of concern by a Department fish health specialist and, if the fish health specialist determines it is necessary, from the entire facility.

(b) Notify in writing by E-mail, fax, or equivalent means the Department's Regional Office and Fish Division of the location, extent, and probable cause of such losses and provide written documentation of a planned Department-approved treatment regimen to control the fish disease agent.

(c) Fish Health Services must maintain a copy of the disease examination record after completing appropriate tests.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0990

Inspection and Detection of Disease Agents at Non-Department Facilities

(1) No person may import, export, release, or transfer live fish or fish eggs in Oregon without a Fish Transport Permit issued pursuant to OAR 635-007-0600.

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(2) Except as provided in section (3) of this rule, any group of live fish or eggs found to have been imported into or transferred within Oregon without a Fish Transport Permit is subject to seizure and destruction by the Department.

(3) The Department, in its discretion, may direct the Facility Manager to undertake immediate steps to obtain proper, up-to-date fish health examinations from the original source of fish or eggs, and to have fish inspected for fish disease agents by a fish health specialist acceptable to the Department. Such fish or eggs must not be released or moved to any other facility until the owner has obtained a completed disease examination report from the fish health specialist. The Facility Manager is responsible for the costs of the inspection required by this rule.

(4) Except for fish reared for release under a private salmon hatchery permit pursuant to ORS 508.700, before importing any fish the Facility Manager must obtain an annual health examination of broodstock from which fish are to be imported and a copy of relevant fish health examinations of the lot of fish to be imported. If a facility has not previously exported fish to Oregon, the Facility Manager must also obtain a five-year fish-health history of stocks held at the facility and a description of the water supply source. Examinations for IHNV, IPNV, and VHSV must be conducted for salmonid broodstock. An examination for *Myxobolus cerebralis*, as described in section (5) of this rule, must also be conducted on salmonid fish. Depending on the fish species, examinations for culturable viruses and specific bacterial and parasitic agents must be conducted for non-salmonid broodstock. The above-listed examinations must be performed by a fish health specialist acceptable to the Department. However, the Department may issue a Fish Transport Permit to import live fish into this state without the examination report if the Department finds:

(a) The fish eggs or larvae would mature to a stage at which they cannot be safely transported before a disease examination could take place or results are complete; and

(b) The fish or eggs are held in a facility approved by the Department until the permit holder can obtain a completed disease examination report.

(5) Examinations for *Myxobolus cerebralis*, agent of whirling disease, must be conducted annually on 60 fish held for a minimum of 180 days at each facility. In cases where multiple water supplies exist, fish reared in each supply must be sampled.

(6) Fish Health Services must maintain a database of fish health examination results.

(7) Any fish found to be infected with a disease agent that the Department determines may adversely affect the health of the fish of this state must be treated or destroyed at the Facility Manager's expense as directed by the Department or may be sold for human consumption, if appropriate.

(8) If fish loss exceeds 0.1 percent per day over five consecutive days in any rearing or incubation container, the Facility Manager, Facility Permittee, or Fish Propagation Licensee must:

(a) Have an examination promptly performed on live and dead fish from each pond of concern by a fish health specialist acceptable to the Department and, if required by the Department, from the entire facility.

(b) Notify in writing by E-mail, fax, or equivalent means the Department's Fish Division at its Headquarters and Fish Health Services laboratories in Corvallis, Clackamas and La Grande of the location, extent, and probable cause of such losses and provide written documentation of a treatment regimen planned to control the fish disease; and

(c) Provide Fish Health Services a copy of the disease examination record within seven business days after completion of appropriate tests.

(9) Failure to comply with these rules is grounds for the revocation of any Fish Propagation License, Cooperative Salmon Hatchery Agreement, or Fish Transport Permit.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-0995

Containment and Treatment of Fish Disease Agents

(1) The Department may approve the transfer or release of fish or issue a Fish Transport Permit with special conditions, depending on the disease history of the shipping station or watershed, the current disease inspection report, or the susceptibility of fish to disease agents endemic in the watershed to which the fish would be shipped.

(2) The Oregon exporter and importer (recipient) are responsible for getting the required permits and complying with all regulations concerning transporting fish within Oregon and importing fish to Oregon from any other state, province, or country.

(3) The annual examination (station check) of salmonids sampled at a particular hatchery for *M. cerebralis* must meet Oregon's requirements for *M. cerebralis* import or transfer of fish from that facility to or within Oregon.

(4) If the Department determines that live fish have a disease agent that may affect fish in Oregon, the fish may not be transported from one watershed to another within this state or exported from this state without the Department's written consent. The Department may restrict or prohibit a person from transporting infected fish or fish suspected of being infected to or from certain watersheds or areas within watersheds of the state.

(5) The Department may authorize a person to transfer salmonids from any waters of the state or other states without a health inspection to a facility approved by the Department for scientific study pursuant to the objectives of projects acceptable to the Department.

(6) Fish at all Department facilities must be treated so as to reduce the amplification of disease agents. Protocols listed in sub-paragraphs (a)-(c) are required for all Department facilities and are recommended for privately operated fish facilities to minimize the amplification of disease agents within their facilities.

(a) When fish disease agents are detected, preventative and therapeutic strategies must be implemented to reduce the impact of such disease agents on both hatchery-reared and naturally-reared native fish populations.

(b) Sanitation protocols:

(A) Eggs must be disinfected or water-hardened in buffered iodophor. Eggs must be disinfected after collection and, if transferred to a new facility, they must also be disinfected upon arrival. Imported eggs and their shipping containers must be disinfected at the approved destination using methods acceptable to the Department's fish health specialists. (A list of acceptable disinfecting agents and methods is available from the Department).

(B) Disinfection footbaths or other means of disinfection must be provided at the incubation facility's entrance and exit areas for sanitizing footwear, raingear, and equipment while embryos are incubating in the facility.

(C) Equipment and rain gear used in broodstock handling or spawning must be sanitized after leaving the adult area and before being used in other rearing units or the hatch-house building.

(D) Equipment used to collect dead fish must be sanitized before being used in another pond, or equipment must be designated for each specific pond.

(E) Dead fish must be disposed of promptly and in a manner that will prevent the introduction of disease agents to waters of the State.

(F) Rearing units must be cleaned on a regular basis by vacuuming, brushing, or flushing. All equipment used for this purpose must be disinfected before being moved to a different pond.

(G) Equipment used to transfer eggs or fish among facilities, including fish liberation tankers, must be sanitized before being used with any other fish lot or at any other location. Disinfecting and disinfected water must be disposed of in an approved manner.

(H) Rearing units must be sanitized after removing fish and before introducing a new fish stock either by thoroughly cleaning the unit and using a disinfectant or by cleaning it and leaving it to dry for a minimum of three days.

(I) Use of pathogen-free water is preferable, especially for egg incubation and early fish rearing.

(c) Preventative and therapeutic fish health strategies must be implemented at all facilities in consultation with the Department's personnel to avoid or reduce disease agents and fish losses. Fish health strategies may include the following:

(A) Modifying hatchery practices such as water temperature, feeding or cleaning regimes, egg culling operations, isolating containers of infected fish, and using a different water supply;

(B) Changing release strategies, if approved by the Department's Fish Division;

(C) Destroying fish if the disease agent is untreatable and an epizootic event is likely, or where an exotic or non-endemic disease agent is detected, if approved by Fish Division;

(D) Increasing water releases from reservoirs when possible to increase flows and reduce water temperature.

(E) Treating fish with federally approved chemicals or drugs from one of the following categories:

(i) FDA-labeled and approved for use on food fish;

(ii) Allowed by the FDA as an Investigational New Animal Drug;

(iii) Obtained by extra-label prescriptions from veterinarians;

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(iv) Allowed by the FDA as low regulatory priority or deferred regulatory status;

(v) Chemicals not allowed on food fish but approved by the FDA through the US Fish and Wildlife Service for fish listed under the federal Endangered Species Act.

(6) In order to continue improving the Department's expertise in fish health, the Department must develop and maintain partnerships with fish health specialists from other state and federal agencies, universities, and management partners.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

635-007-1000

Carcasses for Stream Enrichment

(1) Before approving the use of fish carcasses or fish components for stream enrichment programs, the Fish Division must determine that the use is consistent with the Department of Environmental Quality's requirements.

(2) The Department must review the disease history of the hatchery and particular fish stock, current fish health testing results, geographic location and history of fish disease, and presence of disease agents in the receiving stream and watershed as a whole in order to minimize the risk of introducing or disseminating disease agents into the receiving waters.

(3) Only fish that are killed as excess brood or that survive to spawn may be used for carcass distribution.

(4) Carcasses must be placed in the originating river basin or where identified in hatchery program management plans or other operational or conservation plans.

(5) The Fish Division may stop carcass distribution if pathogen levels increase in spawned adult fish during the spawning period.

Stat. Auth.: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Stats. Implemented: ORS 496, ORS 497, ORS 498, ORS 506, ORS 508
Hist.: DFW 96-2003, f. & cert. ef. 9-19-03

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Notice Publication Date:

Rules Amended: 635-041-0075

Subject: Amend rules to establish fishing periods for the fall season and allowable sales in the Treaty Indian subsistence fisheries, Zone 6, Columbia River. Amendments consistent with Columbia River Compact action of September 19, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6, beginning 6:00 a.m. Tuesday, August 26 to 6:00 p.m. Saturday, August 30; 6:00 a.m. Tuesday, September 2 to 6:00 p.m. Friday, September 5; 6:00 a.m. Tuesday, September 9 to 6:00 p.m. Friday, September 12, 2003; 6:00 a.m. Tuesday, September 16 to 6:00 p.m. Saturday, September 20, 2003, and 6:00 a.m. Wednesday, September 24 to 6:00 p.m. Saturday, September 27, 2003.

(a) There is no mesh size restriction at this time.

(b) All standard dam and river mouth sanctuaries apply, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder are in effect.

(c) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

(d) Salmon and steelhead landed in tributary fisheries, as enacted by the State of Washington, in the Big White Salmon River and Klickitat River may be sold.

(e) Under previous regulations, the setline fishery for sturgeon in the John Day and Bonneville Pools will close 6:00 p.m. Saturday, August 23 and remain closed until after the conclusion of fall commercial gillnet fishing.

(2) Effective 6:00 a.m. August 14, 2003, until further notice, chinook salmon, coho salmon, steelhead, walleye, carp, and shad caught in platform and hook-and-line fisheries may be sold to licensed fish dealers and buyers and directly to members of the general public.

(a) Gear is restricted to subsistence fishing gear including dip nets, hoop nets, setbag nets, and hook-and-line with bait and lures allowed.

(b) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

Stat. Auth.: ORS 496.118 & ORS 506.119
Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90; FWC 91-1990 (Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; DFW 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03

Adm. Order No.: DFW 98-2003(Temp)

Filed with Sec. of State: 9-22-2003

Certified to be Effective: 9-23-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Amend rule to establish non-Indian commercial fishing seasons in the mainstem Columbia River consistent with Columbia River Compact action of September 19, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0060

Late Fall Salmon Season

Salmon and sturgeon may be taken for commercial purposes in the Columbia River in all of Zones 1-5 (described in OAR 635-042-0001). The Elokomin-A, Abernathy Creek, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect. The open fishing periods are 7:00 p.m., Wednesday, September 17 to 7:00 p.m., Friday, September 19, 2003, 6:00 p.m., Sunday, September 21 to 6:00 p.m., Monday, September 22, 2003, 6:00 p.m., Tuesday, September 23 to 6:00 p.m., Thursday, September 25, 2003, 6:00 p.m., Sunday, September 28 to 6:00 p.m., Monday, September 29, 2003, 6:00 p.m., Tuesday, September 30 to 6:00 p.m., Thursday, October 2, 2003, 6:00 p.m., Sunday, October 5 to

ADMINISTRATIVE RULES

6:00 p.m., Monday, October 6, 2003, and 6:00 p.m., Tuesday, October 7 to 6:00 p.m., Thursday, October 9, 2003.

(1) During the September 17 through October 2, 2003 fishing periods, gear is restricted to gill nets with an 8-inch minimum mesh size and 9-3/4-inch maximum mesh size upstream of the lower Zone 4 Boundary extending from Warrior Rock on the Oregon shore to the Lewis River on the Washington shore and no minimum mesh size and 9-3/4-inch maximum mesh size restriction downstream of the lower Zone 4 Boundary. During the October 5 through October 9, 2003 fishing periods, gear is restricted to gill nets with no minimum mesh size and 9-3/4-inch maximum mesh size throughout Zones 1-5.

(2) A maximum of three white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The weekly sturgeon limit applies to the Columbia River mainstem fisheries in the aggregate.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 40-1979, f. & cf. 9-10-79; FWC 45-1979(Temp), f. & cf. 9-21-79; FWC 52-1979(Temp), f. & cf. 11-2-79; FWC 48-1980(Temp), f. & cf. 9-19-80; FWC 51-1980(Temp), f. & cf. 9-22-80; FWC 55-1980(Temp), f. & cf. 9-26-80; FWC 56-1980(Temp), f. & cf. 9-29-80; FWC 58-1980(Temp), f. & cf. 10-17-80; FWC 37-1981(Temp), f. & cf. 9-24-81; FWC 38-1981(Temp), f. & cf. 9-29-81; FWC 69-1982(Temp), f. & cf. 9-30-82; FWC 72-1982(Temp), f. & cf. 10-20-82; FWC 56-1983(Temp), f. & cf. 10-5-83; FWC 54-1984(Temp), f. & cf. 9-10-84; FWC 59-1984(Temp), f. & cf. 9-18-84; FWC 66-1984(Temp), f. & cf. 9-26-84; FWC 68-1984(Temp), f. & cf. 10-2-84; FWC 58-1985(Temp), f. & cf. 9-13-85; FWC 62-1985(Temp), f. & cf. 9-24-85; FWC 66-1985(Temp), f. & cf. 10-11-85; FWC 54-1986(Temp), f. & cf. 9-5-86; FWC 64-1986(Temp), f. & cf. 10-3-86; FWC 67-1986(Temp), f. & cf. 10-17-86; FWC 74-1987(Temp), f. & cf. 9-4-87; FWC 75-1987(Temp), f. & cf. 9-11-87; FWC 80-1987(Temp), f. & cf. 9-18-87; FWC 87-1987(Temp), f. & cf. 10-9-87; FWC 91-1987(Temp), f. & cf. 10-16-87; FWC 85-1988(Temp), f. & cf. 9-9-88; FWC 93-1988(Temp), f. & cf. 9-16-88; FWC 99-1988(Temp), f. & cf. 10-7-88; FWC 100-1988(Temp), f. & cf. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cf. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cf. 9-21-89; FWC 109-1989(Temp), f. & cf. 10-6-89; FWC 113-1989(Temp), f. & cf. 11-9-89; FWC 100-1990(Temp), f. & cf. 9-18-90; FWC 101-1990(Temp), f. & cf. 9-19-90; FWC 102-1990(Temp), f. & cf. 9-20-90; FWC 114-1990, f. & cf. 10-8-90; FWC 105-1991, f. & cf. 9-20-91; FWC 118-1991, f. & cf. 10-4-91; FWC 122-1991(Temp), f. & cf. 10-18-91; FWC 129-1991(Temp), f. & cf. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cf. 9-22-92; FWC 100-1992(Temp), f. & cf. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cf. 10-9-92; FWC 109-1992(Temp), f. & cf. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cf. 10-22-92; FWC 80-1995(Temp), f. & cf. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cf. 8-23-96; FWC 58-1996(Temp), f. & cf. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cf. 10-7-96; FWC 62(Temp), f. & cf. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cf. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cf. 10-6-97; FWC 64-1997(Temp), f. & cf. 10-14-97; FWC 65-1997(Temp), f. & cf. 10-20-97; FWC 68-1997(Temp), f. & cf. 11-3-97; FWC 79-1999(Temp), f. & cf. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cf. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cf. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cf. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cf. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cf. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cf. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cf. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cf. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cf. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & cf. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cf. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cf. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cf. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cf. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & cf. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & cf. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & cf. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cf. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & cf. 9-22-03, cert. ef. 9-23-03 thru 12-31-03

Adm. Order No.: DFW 99-2003(Temp)

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 10-1-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-023-0090

Subject: Amend rules to close the Columbia River to the retention of sturgeon from the mouth upstream to the Wauna powerlines (River Mile 40), including Youngs Bay, from October 1, 2003 through December 31, 2003 and from the Wauna powerlines (River Mile 40), upstream to Bonneville Dam, including the Willamette River downstream of Willamette Falls and Multnomah Channel, from November 1, 2003 through December 31, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

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 I-5 Bridge is closed to angling for salmon, steelhead, and shad on Sundays, Mondays, and Tuesdays, effective April 6, 2003 through May 15, 2003. Effective May 4, 2003, the Columbia River from Tower Island power lines upstream to McNary Dam plus the Oregon bank between Bonneville Dam and the Tower Island power lines is open four days per week (Wednesday through Saturday) and closed three days per week (Sunday through Tuesday) with the following restrictions:

(a) Adipose fin-clipped chinook salmon, adipose fin-clipped steelhead, and shad may be retained; all nonadipose fin-clipped chinook salmon and steelhead must be released immediately unharmed;

(b) Catch limits of two adult salmon or steelhead and five jacks per day are in effect as per printed regulation pamphlet.

(3) The Columbia River is closed to the retention of sturgeon from the Wauna powerlines (River Mile 40) upstream to Bonneville Dam, including the Willamette River downstream of Willamette Falls and Multnomah Channel, from November 1, 2003 through December 1, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(4) The Columbia River from the Tongue Point/Rocky Point line upstream to the Oregon/Washington border upstream of McNary Dam is open from June 16, 2003 to July 31, 2003 to the retention of adipose fin-clipped adult summer chinook salmon.

(5) The Columbia River is closed to the retention of sturgeon between The Dalles Dam and John Day Dam effective June 21, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(6) The Columbia River is closed to the retention of sturgeon from the mouth at Buoy 10 upstream to the Wauna powerlines (River Mile 40), including Youngs Bay, from October 1, 2003 through December 31, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(7) The Columbia River is closed to the retention of sturgeon from between Bonneville Dam and The Dalles Dam effective July 7, 2003. Catch and release of sturgeon is allowed to continue; however, all sturgeon must be released immediately and unharmed.

(8) The Columbia River is closed to the retention of sturgeon between John Day Dam and McNary Dam effective July 28, 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. & cf. 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. & cf. 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. & cf. 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. & cf. 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. & cf. 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. & cf. 4-24-98 thru 10-15-98; DFW 34-1998, f. & cf. 5-4-98; DFW 46-1998, f. & cf. 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. & cf. 10-26-98 thru 12-31-98; DFW 88-1998(Temp), f. & cf. 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. & cf. 4-16-99 thru 4-23-99; DFW 29-1999(Temp), f. & cf. 4-23-99 thru 10-20-99; DFW 31-1999, f. & cf. 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. & cf. 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. & cf. 9-17-99 thru 12-31-99; DFW 73-1999(Temp), f. 9-28-99 & cf. 9-29-99 thru 10-22-99; DFW 77-1999(Temp), f. & cf. 10-1-99 thru 12-31-99; DFW 78-1999, f. & cf. 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. & cf. 3-20-00; DFW 18-2000(Temp), f. 4-6-00, cert. ef. 4-8-00 thru 10-5-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 32-2000(Temp), f. 6-14-00, cert. ef. 6-19-00 thru 10-5-00; DFW 35-2000(Temp), f. 6-27-00, cert. ef. 6-28-00 thru 7-31-00; DFW 53-2000(Temp), f. 8-25-00, cert. ef. 8-28-00 thru 12-31-00; DFW 57-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 10-5-00; DFW 58-2000(Temp), f. & cf. 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. & cf. 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. & cf. 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. & cf. 5-1-01; DFW 35-2001(Temp), f. & cf. 5-4-01 thru 5-8-01; DFW 37-2001(Temp), f.

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& cert. ef. 5-11-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 64-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 82-2001(Temp), f. 8-29-01, cert. ef. 8-30-01 thru 12-31-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 88-2001(Temp), f. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 16-2002(Temp), f. 3-1-02 thru 8-28-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 29-2002(Temp), f. 4-4-02, cert. ef. 4-6-02 thru 10-3-02; DFW 40-2002(Temp), f. 4-25-02, cert. ef. 4-28-02 thru 10-3-02; DFW 43-2002(Temp), f. & cert. ef. 5-3-02 thru 10-3-02; DFW 45-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 46-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 10-3-02; DFW 64 2002(Temp), f. 6-27-02, cert. ef. 6-28-02 thru 12-20-02; DFW 69-2002(Temp), f. 7-10-02 cert. ef. 7-11-02 thru 12-31-02; DFW 71-2002(Temp), f. 7-10-02 cert. ef. 7-13-02 thru 12-31-02; DFW 79-2002(Temp), f. 7-29-02, cert. ef. 8-5-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 94-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 105-2002(Temp), f. 9-20-02, cert. ef. 9-23-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 28-2003(Temp), f. & cert. ef. 4-3-03 thru 7-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 36-2003, f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 46-2003(Temp), f. 5-29-03, cert. ef. 5-30-03 thru 10-1-03; DFW 52-2003(Temp), f. 6-13-03, cert. ef. 6-21-03 thru 12-15-03; DFW 54-2003(Temp), f. 6-23-03, cert. ef. 6-28-03 thru 12-24-03; DFW 55-2003(Temp), f. 6-27-03, cert. ef. 6-30-03 thru 12-26-03; DFW 72 2003(Temp), f. 7-25-03, cert. ef. 7-28-03 thru 12-31-03; DFW 99-2003(Temp), f. 9-24-03, cert. ef. 10-1-03 thru 12-31-03

Adm. Order No.: DFW 100-2003

Filed with Sec. of State: 9-25-2003

Certified to be Effective: 9-25-03

Notice Publication Date: 1-1-01

Rules Amended: 635-500-3430, 635-500-3440, 635-500-3450, 635-500-3460

Subject: Amendment of rules to the Sandy River Basin Plan as adopted by the ODFW Commission February 2001. The rules were filed April 16, 2001, but an administrative oversight resulted in not all of the adopted rules being filed. This rule filing corrects previous omissions.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-500-3430

Winter Steelhead

Policies and objectives for wild and hatchery winter steelhead management in the Sandy River basin.

(1) Policies:

(a) The Sandy River basin shall be managed for both wild and hatchery produced winter steelhead; and

(b) The upper Sandy basin will be managed to limit hatchery winter steelhead stray rates to less than 10% above Marmot Dam, and no greater than 30% for the basin as an aggregate.

(2) Objectives:

(a) Rebuild native winter steelhead runs in the Sandy River basin by achieving an average annual spawning escapement of 1,730 wild winter steelhead. Establish an increasing trend in the population of Sandy River wild winter steelhead.

(b) Provide angling opportunities for winter steelhead in the Sandy River basin. This includes consumptive fisheries on hatchery winter steelhead, and a catch-and-release fishery on wild winter steelhead.

(c) So long as it is in place, utilize the counting facility at Marmot Dam to remove hatchery winter steelhead, count returning wild winter steelhead, and monitor stray rates to the upper basin.

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

Stats. Implemented: ORS 506.109 & ORS 506.129

Hist.: DFW 4-1998, f. & cert. ef. 1-12-98; DFW 21-2001, f. & cert. ef. 4-16-01; DFW 100-2003 f. & cert. ef. 9-25-03

635-500-3440

Summer Steelhead

Policy and objectives for hatchery summer steelhead management in the Sandy River basin.

(1) Policy: The Sandy River basin shall be managed for hatchery summer steelhead: Hatchery summer steelhead smolts shall be released in the lower Sandy River basin, where suitable adult holding habitat is available throughout the summer and where adult returns will provide optimum recreational opportunity.

(2) Objectives:

(a) Release an annual 75,000 summer steelhead smolts into the lower Sandy River basin.

(b) Maximize native fish production in the Sandy basin by eliminating potential genetic and ecological impacts of introduced hatchery summer steelhead in the basin above Marmot Dam by sorting hatchery summer steelhead and preventing their passage into the upper basin.

(c) Determine if a native population of summer steelhead exists in the Sandy River basin.

(d) Provide a fishery on hatchery summer steelhead in the Sandy River below Marmot Dam until such time as the sorting facility is removed. When date certain has been determined for removal of Marmot Dam, the Department shall return the issue of continued releases of Marmot steelhead into the Sandy Basin to the Commission for review and additional rule-making, if appropriate.

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

Stats. Implemented: ORS 506.109 & ORS 506.129

Hist.: DFW 4-1998, f. & cert. ef. 1-12-98; DFW 100-2003 f. & cert. ef. 9-25-03

635-500-3450

Coho

Policies and objectives for wild and hatchery coho management in the Sandy River basin.

(1) Policies:

(a) The Sandy River basin shall be managed for both wild and hatchery produced coho; and

(b) The Sandy River will be managed to limit hatchery coho stray rates to less than an aggregate of 10% in the entire basin.

(2) Objectives:

(a) Achieve a minimum five-year average spawning escapement of 1,100 wild coho salmon. Establish an increasing trend in the population of Sandy River wild coho salmon.

(b) Provide angling opportunities for coho salmon in the Sandy River basin. This includes consumptive fisheries on hatchery coho, and an incidental catch-and-release fishery on wild coho if consistent with a recovery plan adopted for Lower Columbia coho.

(c) Address issues concerning conservation, fisheries, and hatchery production through Commission adoption of a Lower Columbia River Coho Recovery Plan.

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

Stats. Implemented: ORS 506.109 & ORS 506.129

Hist.: DFW 4-1998, f. & cert. ef. 1-12-98; DFW 100-2003 f. & cert. ef. 9-25-03

635-500-3460

Spring Chinook

Policies and objectives for wild and hatchery spring chinook management in the Sandy River basin.

(1) Policies:

(a) The Sandy River basin shall be managed for both wild and hatchery produced spring chinook; and

(b) The Sandy River Basin shall be managed to limit hatchery spring chinook stray rates to less than 10% above Marmot Dam.

(2) Objectives:

(a) Achieve an average annual spawning escapement of 2,000 wild spring chinook into the Sandy River basin. Establish an increasing trend in the population of Sandy River wild spring chinook.

(b) Provide angling opportunities for spring chinook in the Sandy River basin. This includes consumptive fisheries on hatchery spring chinook and a catch-and-release fishery on wild spring chinook.

(c) So long as it is in place, utilize the counting facility at Marmot Dam to remove hatchery chinook, count returning wild chinook, and monitor stray rates to the upper basin.

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

Stats. Implemented: ORS 506.109 & ORS 506.129

Hist.: DFW 4-1998, f. & cert. ef. 1-12-98; DFW 21-2001, f. & cert. ef. 4-16-01; DFW 100-2003 f. & cert. ef. 9-25-03

Adm. Order No.: DFW 101-2003(Temp)

Filed with Sec. of State: 9-26-2003

Certified to be Effective: 10-1-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-041-0075

Subject: Amend rules to establish fishing periods for the fall season and allowable sales in the Treaty Indian subsistence fisheries, Zone 6, Columbia River. Amendments consistent with Columbia River Compact action via telephone conference of September 26, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6, beginning 6:00 a.m. Tuesday,

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August 26 to 6:00 p.m. Saturday, August 30: 6:00 a.m. Tuesday, September 2 to 6:00 p.m. Friday, September 5; 6:00 a.m. Tuesday, September 9 to 6:00 p.m. Friday, September 12, 2003, 6:00 a.m. Tuesday, September 16 to 6:00 p.m. Saturday, September 20, 2003, 6:00 a.m. Wednesday, September 24 to 6:00 p.m. Saturday, September 27, 2003, and 6:00 a.m. Wednesday, October 1, 2003 to 6:00 p.m. Saturday, October 4, 2003.

(a) There is no mesh size restriction at this time.

(b) All standard dam and river mouth sanctuaries apply, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder are in effect.

(c) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

(d) Salmon and steelhead landed in tributary fisheries, as enacted by the State of Washington, in the Big White Salmon River and Klickitat River may be sold.

(e) Under previous regulations, the setline fishery for sturgeon in the John Day and Bonneville Pools will close 6:00 p.m. Saturday, August 23 and remain closed until after the conclusion of fall commercial gillnet fishing.

(2) Effective 6:00 a.m. August 14, 2003, until further notice, chinook salmon, coho salmon, steelhead, walleye, carp, and shad caught in platform and hook-and-line fisheries may be sold to licensed fish dealers and buyers and directly to members of the general public.

(a) Gear is restricted to subsistence fishing gear including dip nets, hoop nets, setbag nets, and hook-and-line with bait and lures allowed.

(b) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90; FWC 98-1990(Temp), f. & cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-7-91; FWC 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-1-92; cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92; cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-17-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94; cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95; cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96; cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97; cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-16-97; cert. ef. 9-17-97; FWC 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-19-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03

Adm. Order No.: DFW 102-2003(Temp)

Filed with Sec. of State: 9-30-2003

Certified to be Effective: 10-1-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-004-0033

Subject: Amend rules to close commercial season for harvest of black rock and blue rockfish October 1, 2003, and to close commercial harvest of cabezon and other nearshore rockfish November 1, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

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 (includes black and yellow rockfish, brown rockfish, calico rockfish, China rockfish, copper rockfish, gopher rockfish, grass rockfish, kelp rockfish, olive rockfish, and quillback rockfish).

(b) Minor Shelf Rockfish (excluding tiger rockfish and vermilion 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 2,000 pounds of cabezon or more than 900 pounds combined of the species from subsection (1)(a), (h) or (i) for commercial purposes during any cumulative catch period described in subsection (b).

(b) The cumulative catch periods are: July 1 – August 31; September 1 – October 31.

(c) No commercial fishing vessel may land greenling on, or after, August 18, 2003. A vessel may land up to 350 pounds of greenling prior to August 18, 2003, for the July 1 – August 31 cumulative catch period. No additional fishing for, or landing of, greenling is allowed for the remainder of 2003.

(d) If a vessel lands an amount of catch that exceeds the limit for black rockfish and blue rockfish combined or for minor nearshore rockfish prior to July 18, 2003, the vessel may retain the proceeds from that catch, but no additional fishing may occur for the fish group that was exceeded for the remainder of the July 1 – August 31 period.

(e) No commercial fishing vessel may land black rockfish or blue rockfish on, or after, October 1, 2003.

(f) No commercial fishing vessel may land cabezon or any species from subsection (1)(a), (h) or (i) on, or after, November 1, 2003.

(g) No commercial fishing vessel may land yelloweye rockfish.

(3) The harvest of all species or groups of species from subsections (1)(b), (c), (f), (j) and (l)-(x) is governed by federal rules found in Title 50 of the Code of Federal Regulations, Part 300, Subpart E, as amended to include all amendments to, and including Federal register Volume 68, Number 129, dated July 7, 2003, which are incorporated by reference into this rule.

Stat. Auth.: ORS 506.109 & ORS 506.119

Stats. Implemented: ORS 506.129

ADMINISTRATIVE RULES

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; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03

Adm. Order No.: DFW 103-2003(Temp)

Filed with Sec. of State: 10-3-2003

Certified to be Effective: 10-8-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-041-0075

Subject: Amend rules to establish fishing periods for the fall season and allowable sales in the Treaty Indian subsistence fisheries, Zone 6, Columbia River. Amendments consistent with Columbia River Compact action via telephone conference of October 2, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6, beginning 6:00 a.m. Tuesday, August 26 to 6:00 p.m. Saturday, August 30; 6:00 a.m. Tuesday, September 2 to 6:00 p.m. Friday, September 5; 6:00 a.m. Tuesday, September 9 to 6:00 p.m. Friday, September 12, 2003; 6:00 a.m. Tuesday, September 16 to 6:00 p.m. Saturday, September 20, 2003; 6:00 a.m. Wednesday, September 24 to 6:00 p.m. Saturday, September 27, 2003; 6:00 a.m. Wednesday, October 1, 2003 to 6:00 p.m. Saturday, October 4, 2003 and 6:00 a.m. Wednesday, October 8, 2003 to 6:00 p.m. Saturday, October 11, 2003.

(a) There is no mesh size restriction at this time.

(b) All standard dam and river mouth sanctuaries apply, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder are in effect.

(c) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

(d) Salmon and steelhead landed in tributary fisheries, as enacted by the State of Washington, in the Big White Salmon River and Klickitat River may be sold.

(e) Under previous regulations, the setline fishery for sturgeon in the John Day and Bonneville Pools will close 6:00 p.m. Saturday, August 23 and remain closed until after the conclusion of fall commercial gillnet fishing.

(2) Effective 6:00 a.m. August 14, 2003, until further notice, chinook salmon, coho salmon, steelhead, walleye, carp, and shad caught in platform and hook-and-line fisheries may be sold to licensed fish dealers and buyers and directly to members of the general public.

(a) Gear is restricted to subsistence fishing gear including dip nets, hoop nets, setbag nets, and hook-and-line with bait and lures allowed.

(b) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f.

& ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03

Adm. Order No.: DFW 104-2003(Temp)

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

Certified to be Effective: 10-11-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-041-0063, 635-041-0075

Subject: Amend rules to the Treaty Indian commercial sturgeon setline fishery and close platform and hook and line fishery. Amendments consistent with Columbia River Compact action of October 9, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-041-0063

Sturgeon Setline Fishery

(1) Sturgeon between 4 feet and 5 feet in overall length may be taken by setline for commercial purposes from:

(a) from 12 Noon January 1 through 12 Noon January 31;

(b) from 6 a.m. June 9, 2003 through 6 p.m. July 12, 2003, and from 6 a.m. July 28, 2003 through 6 p.m. August 23, 2003 between Bonneville Dam and The Dalles Dam and between John Day Dam and McNary Dam;

(c) from 6:00 a.m., Monday, October 13, 2003, until further notice between Bonneville Dam and The Dalles Dam (Zone 61) and John Day Dam and McNary Dam (Zone 63). Sturgeon taken in scaffold (platform) fisheries may also be sold during open commercial fisheries for that pool.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

ADMINISTRATIVE RULES

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 & ORS 506.119

Stats. Implemented: ORS 506.129 & ORS 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000, f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03

635-041-0075

Fall Salmon Season

(1) Chinook salmon, coho salmon, steelhead, walleye, carp, and shad may be taken with gillnet for commercial purposes from mainstem Columbia River waters in all of Zone 6, beginning 6:00 a.m. Tuesday, August 26 to 6:00 p.m. Saturday, August 30; 6:00 a.m. Tuesday, September 2 to 6:00 p.m. Friday, September 5; 6:00 a.m. Tuesday, September 9 to 6:00 p.m. Friday, September 12, 2003; 6:00 a.m. Tuesday, September 16 to 6:00 p.m. Saturday, September 20, 2003; 6:00 a.m. Wednesday, September 24 to 6:00 p.m. Saturday, September 27, 2003; 6:00 a.m. Wednesday, October 1, 2003 to 6:00 p.m. Saturday, October 4, 2003 and 6:00 a.m. Wednesday, October 8, 2003 to 6:00 p.m. Saturday, October 11, 2003.

(a) There is no mesh size restriction at this time.

(b) All standard dam and river mouth sanctuaries apply, except Small Spring Creek sanctuary within a radius of 150 feet of the Spring Creek Hatchery ladder are in effect.

(c) Sturgeon between 4-5 feet in length may not be sold but may be retained for subsistence purposes.

(d) Effective 12:00 p.m., Noon, October 14, 2003 through 6:00 p.m., December 13, 2003, chinook and coho salmon landed in tributary fisheries, as enacted by the State of Washington, in the Klickitat River may be sold. A permit from the Yakama Tribal Council is required to sell fish outside the Klickitat Falls area.

(2) Effective 6:00 p.m., Saturday, October 11, 2003, until further notice, chinook salmon, coho salmon, steelhead, walleye, carp, and shad caught in platform and hook-and-line fisheries may not be sold to licensed fish dealers and buyers nor directly to members of the general public.

Stat. Auth.: ORS 496.118 & ORS 506.119

Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-

1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(T), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(T), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000, f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03

Adm. Order No.: DFW 105-2003(Temp)

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

Certified to be Effective: 10-12-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Amend rule to establish non-Indian commercial fishing seasons in the mainstream Columbia River consistent with Columbia River Compact action of October 9, 2003.

Rules Coordinator: Mike Lueck—(503) 947-6033

635-042-0060

Late Fall Salmon Season

Salmon and sturgeon may be taken for commercial purposes in the Columbia River in all of Zones 1-5 (described in OAR 635-042-0001). The Elokomina-A, Abernathy Creek, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect. The open fishing periods are 7:00 p.m., Wednesday, September 17 to 7:00 p.m., Friday, September 19, 2003; 6:00 p.m., Sunday, September 21 to 6:00 p.m., Monday, September 22, 2003; 6:00 p.m., Tuesday, September 23 to 6:00 p.m., Thursday, September 25, 2003; 6:00 p.m., Sunday, September 28 to 6:00 p.m., Monday, September 29, 2003; 6:00 p.m., Tuesday, September 30 to 6:00 p.m., Thursday, October 2, 2003; 6:00 p.m., Sunday, October 5 to 6:00 p.m., Monday, October 6, 2003, and 6:00 p.m., Tuesday, October 7 to 6:00 p.m., Thursday, October 9, 2003. The season has been extended to include the following fishing periods: 6:00 p.m., Sunday, October 12, 2003 to 6:00 p.m., Monday, October 13, 2003; 6:00 a.m., Wednesday, October 15, 2003 to 6:00 a.m., Friday, October 17, 2003; 6:00 p.m., Sunday, October 19, 2003 to 6:00 p.m., Monday, October 20, 2003; 6:00 a.m., Wednesday, October 22, 2003 to 6:00 a.m., Friday, October 24, 2003; 6:00 p.m., Sunday, October 26, 2003 to 6:00 p.m., Monday, October 27, 2003; and 6:00 a.m., Wednesday, October 29, 2003 to 6:00 a.m., Friday, October 31, 2003.

(1) During the October 12, 2003 through October 27, 2003 fishing periods, salmon and sturgeon may be taken for commercial purposes in the area of the Columbia River upstream to Beacon Rock (Zones 1-5). Gear is restricted to gill nets with no minimum mesh size and 9-3/4-inch maximum mesh size.

(2) During the October 29 through October 31, 2003 fishing period, salmon and sturgeon may be taken for commercial purpose in the area between Harrington Point on the Washington shore to Settler Point on the Oregon shore upstream to Beacon Rock (Zones 2-5). Gear is restricted to gill nets with no minimum mesh size and 9-3/4-inch maximum mesh size.

(3) A maximum of nine white and green sturgeon in the aggregate may be possessed or sold by each participating vessel during each calendar

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week (Sunday through Saturday) that the fishery is open. The weekly sturgeon limit applies to the Columbia River mainstem fisheries in the aggregate.

Stat. Auth.: ORS 496.118 & ORS 506.119
Stats. Implemented: ORS 506.109, ORS 506.129 & ORS 507.030
Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-198 (Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991 (Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992 (Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992 (Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp) f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03

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Department of Human Services, Child Welfare Programs Chapter 413

Adm. Order No.: CWP 31-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Adopted: 413-040-0017, 413-040-0027, 413-040-0031, 413-040-0042, 413-040-0047, 413-040-0052, 413-040-0071

Rules Amended: 413-040-0000, 413-040-0005, 413-040-0010

Rules Renumbered: 413-040-0040 to 413-040-0021, 413-040-0015 to 413-040-0037, 413-040-0025 to 413-040-0057, 413-040-0035 to 413-040-0061, 413-040-0045 to 413-040-0063

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

porting the Service Plan, must be related to the reasons for court jurisdiction. Significant changes include:

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

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

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

Service plans must utilize family strengths to help change behaviors.

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

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

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

Rules Coordinator: Annette Tesch—(503) 945-6067

413-040-0000

Purpose

(1) The purpose of these rules (OAR 413-040-0000 to 413-040-0076) is to define the minimum requirements for developing and maintaining a service plan. The service planning process requires that the worker and the family identify key problem issues, determine the objectives to be achieved, and agree upon the actions to be taken. "Family" includes the legally recognized parent or guardian and the children who are capable and whose needs require them to participate in the planning process, as well as other family members when required. Exceptions to the involvement of the parents are included in these rules. A service plan must directly address a caregiver's functioning in the parental role as it relates to the child's needs for safety, permanence, and well-being. There must be a logical and clear relationship between the service plan and the presenting child welfare issues. When a child is a ward of the court, the service agreement or letter of expectations supporting the service plan must be related to the reasons for court jurisdiction.

(2) Indian Child Welfare Act. If the Department has determined that a child is enrolled or is eligible for enrollment in a federally recognized Indian Tribe, or if a worker knows or has reason to know that a child is or may be an Indian or Alaska Native child, the child welfare policy "Placement of Indian Children," policy I-E.2.1, OAR 413-070-0100 through 413-070-0260 is applicable. Those rules provide detailed information, processes, and procedures for application of ICWA, including determining ICWA eligibility.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0005

Definitions

(1) "Change Goals" means concrete and specific goals that are measurable and observable and reflect the presence rather than the absence of something. A concrete goal usually involves a measurable change in behavior, which includes thoughts, actions, feelings, and attitudes; a change in the quality or quantity of relationships; or a change in some aspect of the environment. Well formulated change goals will concretely state what will be different when the intervention is complete and the case can be closed.

(2) "Concurrent Plan" means a plan established as an alternate or backup permanency plan when the goal of the permanency plan is placement with the parents. The concurrent plan is developed simultaneously with the plan to return the child to its parents. Although the concurrent plan may change as more information becomes available, the goal is to develop a safe and permanent resource with family members or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

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Hist.: SCF 8-1996(Temp) , f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03

(3) "Family Decision Meeting (FDM)" means a family focused intervention facilitated by professional staff that is designed to build and strengthen family supports and the natural care-giving systems for the children. Family decision meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision meeting is to establish a plan that may include a permanency plan, concurrent permanency plan, placement recommendation or service recommendation and agreements, which provide for the safety, attachment, and permanency needs of the child. Family decision meetings emphasize the family's unique plans for its children. The family members collaborate, rather than just participate in the meeting. It is also essential that the professionals in the meeting have direct involvement with the child and the family and are not just members of a committee.

(4) "Family Member" means any person related to the child by blood, marriage or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins or great-grandparents, or, in an ICWA case, as defined by the law or custom of the Indian child's tribe. Family member also includes a child 12 years of age or older and a child younger than 12 years of age, when appropriate. This term is defined in ORS 417.371(4)(a).

(5) "Family Plan" is defined at ORS 417.375 and means the agreed upon services, activities and outcomes developed at the statutory Oregon Family Decision Meeting which may include a permanency plan, concurrent permanency plan, placement recommendations, and service recommendations. The family plan also includes expectations of the parents of the child and other family members; services the Department will provide; time lines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. This term is defined in ORS 417.375(1).

(6) "Letter of Expectations" means a written statement developed by the Department that identifies needs and services and clarifies agency expectations and timelines, without the joint participation or agreement of the parents.

(7) "Oregon Family Decision Meeting (OFDM)" means the statutory Family Decision Meeting that must be considered after 30 days of out-of-home placement. The OFDM is described in ORS 417.365 to 417.375. The purpose of the OFDM is to establish a plan that may include a permanency plan, concurrent permanency plan, placement recommendation, and service recommendation and agreements, which provide for the safety, attachment, and permanency needs of the child.

(8) "Parent" means a legally recognized mother or father or legal guardian or, in an ICWA case, it means an Indian custodian, which is any person who has legal custody of the Indian child under tribal law or custom or under state law.

(9) "Permanency Plan" means a plan to achieve permanency for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(10) "Reasonable Inquiries" as defined in ORS 417.371(4)(b), means efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information that may lead to ascertaining the whereabouts of family members, if necessary.

(11) "Reunification" means placement with a parent of legal standing.

(12) "Service Agreement" means a written, signed statement developed jointly by the Department, the legal parents or legal guardians, and other family members when appropriate that identifies change goals based upon strengths and child needs, states clear expectations, identifies permanent and concurrent plans, and establishes services and timeframes.

(13) "Service Plan" means the services and activities designed to achieve goals for child safety, a permanent home, and child well-being.

(14) "Substitute Care" means a child in the legal custody and care of the Department of Human Services (Department) who is in a placement with someone other than the child's birth parent, legal parent, or legal guardian.

(15) "Team Decision Meeting (TDM)" means a facilitated meeting with family, extended family, community members, service providers, and child welfare staff held for the purpose of making child placement related decisions.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-040-0010

Developing a Service Plan

(1) The initial service plan must be developed and carried out through a process that supports family participation and participation of the child's tribe, when applicable, in the development of the plan and services. Family members may include children, the legally recognized parents, adoptive parents, legal guardians, an Indian custodian when applicable, other family members when required, and foster or relative caregivers when appropriate. A family decision meeting is a process recommended to involve the family members in the development of the service plan. Service agreements are required to support both in-home and substitute-care service plans.

(2) Service plans will include required goals and activities when a child is entitled to rights provided under the Indian Child Welfare Act (see OAR 413-010-0100 through 0260, Child Welfare policy I-E.2.1) or the Refugee Act (see OAR 413-070-0300 through 0380, Child Welfare policy I-E.2.2).

(3) When a child is in substitute care, child welfare policy "Working with Relatives Toward Placement of Children," policy I-E.1.1 (OAR 413-070-0060 through 413-070-0093), provides guidelines for the involvement of family members in the service plan and the supporting service agreements.

(4) When a child resides in substitute care and a service agreement cannot be achieved, a letter of expectations is used to support the service plan. The substitute care service agreement or letter of expectations must be related to the reasons for court jurisdiction.

(5) When the service is directed toward specific behavior problems of a minor, the legally recognized parent, guardian, or Indian custodian must participate in developing and reviewing the services planned except for the following services listed in statute:

(a) The diagnosis and treatment of venereal disease of children 12 years of age and older;

(b) Referral of minors 15 years of age and older for pregnancy termination;

(c) Surrender of parental rights by minors; and

(d) Services to minors who are legally emancipated.

(6) A court may authorize an exception to the involvement of the parents when it determines that reasonable efforts or active efforts, in an ICWA case, to return a child home are not required, as defined in child welfare policy "Achieving Permanency," policy I-E.3.6, OAR 413-070-0515.

(7) A minimum of one face-to-face client interview will be made in order to develop the service plan. Family members, including a child who is capable, whom the service plan addresses, will be given an opportunity to participate in its development and to discuss the options in participating in the plan.

(8) A copy of the service plan will be made available to the parents and the Indian child's tribe, if applicable, unless there is an exception to this requirement in section (5) or (6) of this rule.

(9) When a service plan is in effect, the child welfare caseworker must have face-to-face contact with the child and family at least once every 30 days or more frequently if specified in the service plan, substitute care service agreement, in-home service agreement, or letter of expectations.

(10) The child welfare caseworker must record and document the contact with the family members in the FACIS form CF 147 (series) narrative recording.

(11) The child welfare caseworker must identify change goals in the service plans that state what will be different when the plan is completed. The change goals must address the core child welfare issues and focus on achieving concrete results to resolve these issues.

(12) Service plans must utilize family strengths to help change behaviors, include the family in assessing change over time, and document change to help determine case status with respect to the following areas:

(a) Safety: The child will be safe in its own home. Recommendations to reunify or maintain a child with its parents must be based on evidence of substantial improvement of parenting capacity, such as achievement of change goals or an increase in protective factors.

(b) Permanency: The child will have a safe and more stable home through the improvement and stability of its caretaker's parental functioning, whether the child is in the home of its parents or in an alternate placement.

(c) Well-being: The family will demonstrate enhanced capacity to provide for the child's educational, physical, and mental health needs.

[ED. NOTE: Policies referenced in this rule are available from the agency.]

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0017

Reunification and Concurrent Plans

(1) When a child is placed in the Department's custody, a service plan must include both a plan for reunification and a concurrent plan. The child welfare caseworker must address the child's important attachments, must maintain these attachments whenever it is possible to do so, and must meet the child's needs for safety, permanency, and well-being.

(2) Reunification plan. The permanency plan of first choice is to return the child, or to place the child, with a parent of legal standing. The parent must be able to meet the child's needs for safety, permanence, and well-being.

(3) Concurrent Plan. An alternate permanent placement for the care of a child in the Department's custody must be developed simultaneously with a plan for reunification. This plan is to be available to the child in the event that parental change does not occur sufficiently to provide for the child's needs for safety, attachment, and well-being.

(4) A child welfare caseworker must revise a service plan whenever there is a substantial change in a change goal or in the planned services.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0021

Time Frames for Service Plan Development

(1) Following preventive or restorative services intake or protective services assessment, a child welfare caseworker must develop a service plan. The service plan must be completed within 30 days after the completion of the intake phase or within 30 days after completion of the child protective services (CPS) written assessment.

(2) The child welfare caseworker must develop a new or revised service plan with the family within 30 calendar days of the child's return home from substitute care.

(3) Substitute care services: The child welfare caseworker must develop a service plan within 60 days from the date the child is placed in substitute care.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0020; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0040

413-040-0027

Team Decision Meetings (TDMs)

Team decision meetings (TDMs) are held for placement-related decisions as required by child welfare policy "Child Safety Assessment and Safety Planning," policy I-AB.5, OAR 413-015-0500 through 0510. The goal of a TDM is to develop a plan that protects the child and preserves or reunifies the family. Participants may include immediate and extended family members, representatives from an Indian child's tribe, community members, service providers, child welfare staff, and foster parents if the child is in a substitute care placement. Other potential participants may be identified at the TDM and invited to the OFDM when a child remains in out-of-home care longer than 30 days.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0031

Family Decision-making Meetings (FDMs)

(1) When a child has been in substitute care placement for more than 30 days, the Department will consider using an Oregon Family Decision Meeting (OFDM) to help develop the service plan. Whenever possible, the OFDM should be held before the child has been in substitute care for 60 days. If the Department determines not to use an OFDM, the rationale of the determination must be documented and recorded on the FACIS form CF 147 (series) narrative recording.

(2) When a decision has been made by the Department and the family to use the OFDM, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other family member who has had significant, direct contact with the child in the year prior to the substitute care placement. Other participants in the meeting may include other professionals, foster parents, neighbors, and friends of the family as appropriate.

(3) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the OFDM in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(4) Other participants will be jointly identified by the parents, legal guardians, Indian custodian of the child, and the Department, and the Department will notify them in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(5) The located family members may attend the OFDM unless the other participants determine that a family member may threaten or place other participants at risk. A family member who is violent, unpredictable, or abusive or who is an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault is an example of who may be excluded from the OFDM. Family members who are not allowed to participate may address the subjects of the OFDM, including concerns regarding the placement of the child, permanent plan, concurrent plan, and services, by submitting their concerns and interests in writing to the family's social service worker prior to the scheduled meeting.

(6) The family plan developed at the OFDM may include a permanency plan, concurrent permanency plan, placement recommendations, or service recommendations. The family plan also includes expectations of the parents of the child and other family members; services the Department will provide; time lines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate.

(7) Any family member or tribal representative participating in an OFDM must sign a written acknowledgment of the content of the family plan developed at the meeting and of their attendance at the meeting.

(8) The Department will send a copy of the family plan developed at the OFDM within 21 days to family participants including those who participated in writing.

(9) The Department will incorporate the family plan developed at the OFDM in the service plan to the extent that the plan protects the child, builds on family strengths, and focuses on achieving permanency for the child within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the service plan, the reasons shall be documented in the FACIS form CF 147 (series) narrative recording.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0037

Service Agreements or Letter of Expectations

(1) The child welfare caseworker must develop a service agreement to support in-home or substitute care service plans. The child welfare caseworker must incorporate the results of a TDM, OFDM, or FDM or other strengths-and-needs-based planning process into the in-home or substitute care service agreement.

(2) A letter of expectations will be used to support the service plan when a service agreement cannot be achieved for a child in the Department's custody who resides in substitute care.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 1-1998(Temp), f. & cert. ef. 1-28-98 thru 7-27-98; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0075; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0015

413-040-0042

In-Home Service Agreement

(1) An in-home service agreement must contain the following elements:

- (a) Change goals that use family strengths to achieve child safety, permanency, and well-being with expected activities and outcomes for parents and other family members;
- (b) Court-ordered expectations, when applicable;
- (c) A list of services the Department will provide to the child and family;
- (d) Time lines for completion of agreed upon activities or accomplishments;
- (e) Benefits of compliance with the in-home service agreement;
- (f) Potential consequences of non-compliance with the in-home service agreement; and
- (g) Plan for reviews, updates or modifications.

(2) The child welfare caseworker and each family member who is a party to the service agreement must sign the in-home service agreement. The child welfare caseworker must give a copy of the in-home service agreement to the parents and the Indian child's tribe, when applicable,

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preferably at the time the agreement is signed, but no later than seven days after the plan is signed.

(3) If all required signatures of family members cannot be obtained, the child welfare caseworker must record the efforts that were made to develop the in-home service agreement and describe how the child will be kept safe without a service agreement in the case narrative recording. This inability to achieve an in-home service agreement must be reviewed with the child welfare supervisor.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0047

Substitute Care Service Agreement

When a child is placed in substitute care, a child welfare caseworker must develop a substitute care service agreement within 60 days of placement unless one of the criteria listed in OAR 413-040-0037 is met. A substitute care service agreement may be developed as the result of a TDM, OFDM, FDM, or other strengths-and-needs-based planning process to support the service plan.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0052

Required Elements of a Substitute Care Service Agreement

(1) A substitute care services agreement must contain the following elements:

(a) Change goals that use family strengths to achieve child safety, permanency, and well-being with expected activities and outcomes for parents and other family members;

(b) Court-ordered expectations, when applicable;

(c) Time lines for completion of agreed upon activities or accomplishments;

(d) Benefits of compliance with the substitute care service agreement in meeting the goal of the permanency plan or concurrent permanency plan;

(e) Potential consequences of non-compliance with the substitute care service agreement in meeting the goal of the permanency plan, including implementation of the concurrent permanency plan;

(f) Plans for reviews, updates, and modifications; and

(g) Services the Department will provide.

(2) A signature is required of each family member who is party to the agreement and the caseworker to signify participation in the development of and agreement to the substitute care service agreement.

(3) The caseworker will give a copy of the substitute care service agreement to the parents and to the Indian child's tribe, if applicable, preferably at the time the agreement is signed, but no later than seven days thereafter. If a required signature on the substitute care service agreement cannot be obtained, the caseworker will document in the case narrative recording what efforts were made to develop the substitute care service agreement and will develop a letter of expectations (see form CF 187, "Narrative Recording Guidelines").

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

413-040-0057

Letter of Expectation

(1) If the parents are unable or refuse to sign a required substitute care service agreement or to be involved in planning for the child, a letter of expectations will be developed by the Department within 60 days of placement of a child in substitute care.

(2) The letter of expectations contains the following elements:

(a) Reasons the letter of expectations is being used rather than a substitute care service agreement;

(b) Expected activities and outcomes for the parents and other family members;

(c) Court-ordered expectations, when applicable;

(d) Services the Department will provide;

(e) Time lines for responding to expected activities and outcomes;

(f) Benefits of compliance with the letter of expectations in meeting the goal of the permanency plan and concurrent permanency plan;

(g) Potential consequences of non-compliance in meeting the goal of the permanency plan, including implementation of the concurrent permanency plan;

(h) Plans for reviews, updates, or modifications; and

(i) Possibilities for developing a future substitute care service agreement.

(3) The Department will mail the letter of expectations to the parents immediately after its development and will mail a copy to the parents' attorneys and to the child's tribe, if applicable.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 1-1998(Temp), f. & cert. ef. 1-28-98 thru 7-27-98; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0085; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0025

413-040-0061

Service Agreement or Letter of Expectations Not Required

A service agreement or letter of expectations is not required if any of the following conditions is met:

(1) The Department's plan for the child has been changed to "Achieve Adoption."

(2) The Department's plan is not to return the child to the care of the parent.

(3) After a reasonable search by the Department for the parents or a diligent search for the parents in the case of an Indian child, the parents whereabouts are unknown.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 1-1998(Temp), f. & cert. ef. 1-28-98 thru 7-27-98; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0095; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0035

413-040-0063

Review Requirements

(1) The service plan review will take place in a face-to-face interview with the parents, alternate care givers, or family members. The review covers a review of the objectives of the plan and the components of the service agreement or letter of expectations for cases with children in substitute care. If the parents or pertinent family members are not available to participate in a service plan review, the reasons for the unavailability will be recorded in the case record.

(2) The service plan review includes a determination of the progress toward achieving each objective outlined in the service agreement or the letter of expectations. The following areas must also be included in the review:

(a) A determination of any further services to be provided by the Department;

(b) The reasons for not using an OFDM after the child has been in out-of-home care for 30 days;

(c) Child safety: a note of any evidence of improvement or lack of improvement in parental behavior related to the identified risk factors to the child.

(d) Recommendations to reunify or maintain the child with its parents, which should be based on evidence of substantial achievement of the change goals that have improved the protective capacity of the child's parents.

(e) Permanence: note the stability of the parental functioning and potential for future stability.

(f) Well-being: note the capacity of caretakers to provide for the child's identified needs, including educational, physical, health, and mental health needs.

(g) Concurrent Permanency Plan: note the activities or steps made to develop and implement the alternate permanency plan.

[ED. NOTE: Policies referenced in this rule are available from the agency.]

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0030; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0045

413-040-0071

Frequency of Reviews

(1) The initial service plan, including both the reunification and concurrent plans, must be reviewed and approved by the child welfare supervisor.

(2) A review of the service plan must be completed by the worker to assist the worker in reviewing all available resources and alternative service strategies and to evaluate whether services should be continued. The review must be completed and submitted to the child welfare supervisor at the following intervals:

(a) Every three months if there has been no significant progress toward achieving the service plan objectives; or

(b) Every six months if there is significant progress toward achieving the service plan objectives.

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(3) Supervisors will document completion of a service plan review as follows:

- (a) For the three-month review, by an entry in the case file.
- (b) For other reviews, by entering "Reviewed" on the respective service plan narrative series and by dating and initialing the entry.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03

Adm. Order No.: CWP 32-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 413-120-0810, 413-120-0820, 413-120-0830

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

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0810

Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR 413-120-0800 to 413-120-0830:

(1) "Child's Worker" is the Department of Human Services (the Department) staff person assigned primary responsibility for a child served by the Department.

(2) "Legalization" is the process of finalizing an adoptive placement so that an adoption decree is issued by a court. "Legalization" is often used interchangeably with "finalization."

(3) "Legally free" means that, with respect to a child, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise dispensed with so that the child may be adopted.

(4) A "Legal Risk Placement" is a placement that occurs when the Department believes that an adoption is in the best interest of the child; that the child is placed in an approved adoptive home; and that the agency intends to approve this placement for adoption if the child becomes legally free for adoption.

(5) "Placement for the purpose of adoption" means a legal risk placement or an adoptive placement.

(6) "Supervising worker" is the worker providing supervision to the adoptive placement.

(7) "Supervision" means to monitor and support the child and the adoptive family, to document the status and adjustment of the child and the adoptive family, and to provide related services towards the legalization of the adoption. Supervision is carried out through, among other things, face-to-face contact, phone contact, correspondence, contact with third parties, and observation.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03

413-120-0820

Values

(1) The Department should seek the active participation of adoptive families in decision-making for the children placed in their homes for adoption.

(2) Creating legal relationships in a timely manner is important in achieving permanency for a child.

(3) During the supervision period, the Department or its contracted agents will monitor safety standards and a child's physical, mental, and emotional needs.

(4) The Department should complete all activities necessary to achieve finalization of the adoption plan in the most timely way possible.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03

413-120-0830

Procedures

(1) Case responsibility for children in adoption placements is explained in the Department's Child Welfare policy I-B.3.3, "Sharing and Transfer of Case Responsibility."

(2) Supervision of the placement of a child placed with an adoptive family includes support for the adoptive family in providing optimal care for the child during the integration process and assistance in achieving timely legalization of the adoption. The supervising worker is responsible for the following:

(a) Face-to-face visits with the child and the adoptive parents at least once every 30 days until legalization to assess safety standards, the child's physical, mental, emotional, and adjustment needs, and the quality of the relationship between the adoptive parents and the child. The supervising worker must document the date and content of face-to-face visits in the case file.

(b) Referrals for services to assist the child or adoptive family with the integration process, when applicable.

(c) Completion of the adoption assistance process, when appropriate.

(d) Completion of the administration reviews required by Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, throughout the supervisory period, except in the case of a legal risk placement, for which the child's worker always has this responsibility.

(e) Completion of a progress report twice a year. The form CF 147B, "Substitute Care Case Review, Substitute Care Narrative," can be used as the progress report if it includes specific information about the child's adjustment in the adoptive placement.

(3) After a child is legally free for adoption and has lived for at least six consecutive months in the home of a current caretaker, as defined in OAR 413-120-0830(1), and when it is in the child's best interests, it is the expectation that the worker, within 30 days after designation of the placement as adoptive, will submit to the Department's Adoption Services Unit:

(a) All materials needed for the establishment of Adoption Assistance (if Adoption Assistance is being requested for the child and an application has not been previously submitted); and

(b) All materials required for the child's permanent adoption record.

(4) Protective service concerns must be addressed following local office sensitive-issue procedures, and actions taken to resolve the concerns will be documented in the case record by the worker.

(5) Non-protective services concerns must be addressed with the supervisor or designated local office authority, and actions taken to resolve concerns will be documented in the record by the worker.

(6) The worker supervising the adoptive placement or the adoption worker, with concurrence of the supervising worker, must make a recommendation to the Department's Adoption Services Unit regarding the readiness of the adoption to finalize upon completion of the supervisory period, taking into consideration the best interests of the child and the adoptive family, as well as the following criteria:

(a) Progress of the child and the adoptive family through the supervisory period;

(b) Completion of the adoption assistance process;

(c) Receipt of required case file documentation by the Adoption Services Unit; and

(d) Availability of post-legal adoption services.

(7) If the placement is not supervised by the child's worker, the worker supervising the placement must send a final progress report to the child's worker in addition to sending it to the Department's Adoption Services Unit.

(8) The length of the supervision period is individually determined consistent with the readiness of the child and the adoptive family to finalize and in keeping with requirement of the federal Adoption and Safe Families Act to make reasonable efforts to finalize the child's permanency plan in a timely manner.

(9)(a) Six months is the standard supervision period for a child in the Department's custody who is placed in a non-current caretaker (relative or non-relative) adoptive home. Consistent with OAR 413-120-0830(3), the supervision period is waived for a child being adopted by the current caretaker.

(b) The standard six-month supervision period may be waived for a child under the age of two years who is being adopted by a non-current caretaker family upon agreement among the child's worker, the adoption worker, and the adoptive family that it is in the best interests of the child to move toward finalization prior to six months of placement. To obtain a waiver, the adoption worker must request it in writing from the Department's Adoption Services Unit manager.

Stat. Auth.: ORS 418.005

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Stats. Implemented: ORS 418.005
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 24-2001, f. 6-29-01 cert. ef. 7-1-01; CWP 32-2003, f. & cert. ef. 10-1-03

Adm. Order No.: CWP 33-2003
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Rules Adopted: 413-120-0625, 413-120-0628, 413-120-0635
Rules Amended: 413-120-0600, 413-120-0610, 413-120-0620, 413-120-0630
Rules Repealed: 413-120-0640, 413-120-0650, 413-120-0660, 413-120-0670
Subject: Revisions to rules regarding Openness in Post Adoption Communication provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), that are funded and managed by the Department of Human Services Adoption Services Program Unit. These rules have been revised to incorporate a checklist for documenting safety concerns identified in the process. The rules direct the worker when it is appropriate to discuss mediation with parties, and to consider this cooperative process early in permanency planning for the child.
Rules Coordinator: Barbara J. Carranza—(503) 945-6649

413-120-0600

Purpose

The purpose of these rules OAR 413-600-0005 through 0035 is to provide guidelines for a cooperative adoption planning process, as well as procedures for developing Post Adoption Communication Agreements (PACA), funded and managed by the Department's Adoption Services Program Unit.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.305
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0610

Definitions

(1) "Birth Relatives" means birth parent(s), grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.

(2) "Child Welfare Mediator" means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process, and has a legal assistance mediation contract with the Department.

(3) "Department" means the Department of Human Services.

(4) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative adoption process that may result in an Post Adoption Communication Agreement (PACA).

(5) "Legal Assistance Referral" means an attorney client privileged document used to prepare the termination of parental rights petition and or trial preparation work.

(6) "Legal Assistance Specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.

(7) "Cooperative Adoption Mediation or Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules OAR 413-600-0005 through 0035 "Cooperative Adoption Mediation" will be referred to as "Mediation".

(8) "Mediation Communications" means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(9) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process and who will be responsible for the creation and implementation of any PACA that results.

(10) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(11) "Post Adoption Communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.

(12) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parent(s) and adoptive parent(s) and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.305
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0620

Values

(1) Support and Safe Communication: Every healthy family requires support. Families created through adoption have different support needs than biological families in that the child is connected to more than one set of parent(s). One important aspect is the need for continued safe connection and communication between biological and adoptive families, to the extent that it is consistent with the health and safety needs of the child.

(2) Collaboration: The child and their families benefit when the significant adults in their lives work collaboratively to identify and respond to the individual needs of the child. The significant adults for a child in foster care may include, but are not limited to: biological parent(s), prospective adoptive parent(s), child welfare workers, CASA, attorneys, and others.

(3) Empowered, Informed Decisions: Families, and individuals within them, are capable of making decisions about their lives. They should be empowered to make those decisions that affect the cooperative nature of an agreement for post adoption communication, whenever possible. In order for their decisions to be effective, they may need to be informed by a wide range of people and sources about a variety of adoption related issues.

(4) Mediation as Tool: Mediation is a process that can play an important role in developing effective communication between those families seeking to participate in a cooperative adoption planning process. Qualified mediators can provide assistance in the cooperative adoption planning process by providing a safe and constructive atmosphere for effective communication.

(5) Voluntary Commitment to Cooperate/Participate: Mediation is most successful when the adoptive parent(s) and biological parent(s) participate voluntarily. Their commitment to a cooperative planning process to support the lifelong safety and well-being of their child is an essential aspect of this success. It is these parent(s) who are the ultimate decision makers about this agreement and are responsible for maintaining the agreement throughout the life of the child.

(6) No Coercion: The cooperative adoption mediation process is meant to be a tool that is used to achieve a result that is in the long term best interest of the child. It is not meant to be used coercively for unilateral gain.

(7) Flexibility: PACAs should be flexible in responding to the child's maturity and developmental needs, or changes in the lifestyles of the birth and adoptive parent(s). Flexibility in these agreements will support the ongoing nature of the cooperative relationship that is formed and fostered through the cooperative adoption process.

(8) Benefits of the PACA for the child may include, but are not limited to:

- (a) Having knowledge and information about his/her birth family,
- (b) Having an ability to maintain birth family identity,
- (c) Having a good model of effective communication,
- (d) Having a realistic understanding of the circumstances of the birth parent(s),
- (e) Having a sense of well-being fostered by adoptive and birth parent(s) working collaboratively to support the needs of the child,
- (f) Having a better ability to process important life transitions as the child grows into an adult,
- (g) Having an opportunity to appropriately grieve the loss of the birth family, and
- (h) Having the permission of the birth parent(s) to become a member of the adoptive family.

ADMINISTRATIVE RULES

(9) Benefits of the PACA for the adoptive parent(s) may include, but are not limited to:

- (a) Having an understanding of who the biological family is;
- (b) Having an exchange of on-going information such as medical and other important life information;
- (c) Supporting the child's need to be connected to the birth family;
- (d) Having the sense of accomplishment that is associated with positive cooperative relationships;
- (e) Helping the child to appropriately grieve the loss of the birth family; and
- (f) Having the permission and the support of the birth parent(s) to help the child to become a member of the adoptive family.

(10) Benefits of the PACA for the birth parent(s) may include, but are not limited to:

- (a) Knowing their child is in a safe and secure environment,
- (b) Having a better ability to process loss of a child and the transition to a new family,
- (c) Having an exchange of on-going information such as medical and other important life information,
- (d) Having the sense of accomplishment that is associated with positive cooperative relationships,
- (e) Being able to get on-going information about the life of the child,
- (f) Having a sense of closure related to the loss of the child, and
- (g) Having assisted their child to successfully become a member of the adoptive family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0625

Roles and Responsibilities

(1) Child's caseworker: The child's caseworker represents the custodian of the child and assesses the appropriateness of mediation for cooperative post adoption planning for the children on their caseload. The child's caseworker consults with the supervisor and LAS, and seeks input from other interested persons. The decision to refer a case to mediation is based on the best interest of the child and whether the child's safety and permanency needs will be met with post adoption communication. The child's caseworker consults with an adoption worker, if assigned, or the identified adoptive parent(s) and the birth parent(s) about willingness to participate in the cooperative adoption mediation process. The child's caseworker initiates the referral to mediation and is the primary contact for the contract mediator.

(2) Adoption worker: The adoption worker connects to the cooperative adoption mediation process, selected adoptive parent(s) (including preliminary current caretaker families) of children who may benefit from post adoption communication. The adoption worker collaborates with the child's worker to identify benefits of the cooperative adoption mediation process and documents safety concerns to be communicated on the Mediation Referral Form.

(3) LAS:

(a) The LAS ensures that legal assistance mediation or cooperative adoption mediation services are included in the discussions of the plan to free the child for adoption (by relinquishment or termination of parental rights.) The LAS determines, in consultation with the child's worker and the legal assistance attorney, whether cooperative adoption mediation planning meets the child's best interest post adoptively. If the referral is appropriate the LAS approves the Referral for Mediation (CF 0437). The LAS confers with the child's caseworker when the caseworker determines that the PACA may not meet the safety concerns of the child. The LAS advises the child's caseworker on additional requirements related to Indian children.

(b) The outcome of the procedures to terminate parental rights shall not be the basis of ending the cooperative adoption mediation process.

(4) Contract Mediator: The contracted mediator for the cooperative adoption mediation process assists mediation participants in clarifying issues and stating expectations. The mediator is a neutral third party who assists the mediation participants in exploring options and empowers the mediation participants to make decisions through the confidential cooperative adoption planning process. The mediator will not make or impose decisions about the final outcome of the PACA.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0628

Criteria for Using the Cooperative Adoption Mediation Process

(1) The fundamental criteria for referring a child for a cooperative adoption mediation process is the best interest of the child's well-being, permanency and safety. It is the responsibility of the department to determine if a referral for mediation is appropriate in accordance with the criteria of OAR 413-120-0628(1) through (3).

(2) Parent(s) who actively chose adoption for their child through voluntary relinquishment of parental rights and who do not present a danger to their child or to an adoptive family, may be most appropriate to participate in a cooperative adoption mediation process. However, parent(s) who have an adversarial relationship with the Department may be able to work cooperatively with a mediator and the adoptive family in a cooperative adoption mediation process.

(3) The decision of a birth parent(s) to relinquish parental rights or a Department decision to proceed to a termination of parental rights trial must be made independent from the Department's decision to refer a case for cooperative adoption mediation. One decision must not be conditioned upon the other.

(a) Relinquishment or termination of parental rights resolves the child's legal status;

(b) The cooperative adoption mediation process is not a means to avoid a termination of parental rights trial. At no time shall a voluntary relinquishment be conditioned on the willingness of the birth parent(s) and/or adoptive parent(s) to enter into a cooperative adoption mediation process;

(c) Caseworkers may not guarantee a certain level of openness in adoption nor make any promises regarding the cooperative adoption mediation process to convince a parent(s) to voluntarily relinquish the child for adoption.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

413-120-0630

Post Adoption Communication Agreements (PACAs)

(1) The cooperative adoption mediation process allows the mediation participants to make an informed and self determined decision after exploring the full range of options available to them. These decisions may be memorialized in a PACA. Post Adoption Communication Agreements make the most sense in situations where birth parent(s) are working with the agency to plan adoption, and where voluntary relinquishment of parental rights will be the mechanism to free the child for adoption rather than termination of parental rights. Parents who actively choose adoption for their child, and who do not present a danger to their child or to an adoptive family, are appropriate for a Post Adoption Communication Agreement.

(2) The PACA must address the safety concerns listed in the **Mediation Referral Form**.

(3) The PACA must not condition the terms of agreement upon the decision of the birth parent(s) to relinquish parental rights.

(4) Informed decision making in mediation involves giving the participants the opportunity to make self-determined decisions after exploring options that may impact the terms of their final agreement. The following characteristics should be considered in forming a PACA:

(a) It is based on the individual needs of the child and capable of meeting the child's developmental needs over time;

(b) Reflects the intent of relationship building in order for the adoptive parent(s) to meet the needs of the adopted child through growth and development;

(c) It is clear and can be understood by the mediation participants;

(d) It addresses how contingencies will be handled. For example: failure to adhere to the terms of the agreement by any mediation participant; requests for informal changes to the terms of the agreement, etc.

(e) It includes a procedure for modifying the agreement to meet the changes of the child through growth;

(f) It addresses how costs to support the agreement, such as transportation, counseling, supervision of visits, and letter and picture exchanges will be met.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

ADMINISTRATIVE RULES

413-120-0635

Cooperative Adoption Planning Through Legal Assistance Mediation Services

(1) Department will provide information on an ongoing basis to birth and adoptive families, Department staff, and other interested persons in the child's life: Information regarding the value and benefits of cooperative adoption planning; the use of mediation as a tool to achieve a cooperative adoption; and, the roles of all mediation participants in the cooperative adoption process. This concurrent planning education will take place early and often throughout the case. (*See Flow Chart Box 1 & 2*)

(2) The birth parent(s), identified adoptive parent(s), CASA, child, attorneys of record, Citizen Review Boards and other persons interested in the child's need for permanency, safety and well-being may request that the case be referred for cooperative adoption mediation services. (*See Flow Chart Box 3.*)

(3) The Department will obtain input from interested persons, prior to or during the cooperative adoption planning process, regarding the appropriateness of cooperative adoption planning to address the child's permanency, safety and well-being. (*See Flow Chart Box 4.*)

(4) On an ongoing basis, Department staff will explore the willingness of the birth and adoptive parent(s) to engage in the cooperative adoption planning process through mediation. (*See Flow Chart Box 5.*)

(5) A Mediation Referral Form must not be submitted until a committee has selected the adoptive parent(s) for a child, either at the preliminary current caretaker or adoption committee, and until the case has been staffed and approved for mediation by a LAS. See OAR 413-120-0500 through 0540 (1-G.1.1 Non relative Current Caretaker Adoption Planning), and OAR 413-120-0000 through 0080 (1-G.1.5, Adoption Placement Selection.)

(6) To support the development of a cooperative adoption planning process through mediation, the Department must have the following responsibilities:

(a) After a Legal Assistance Referral has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must address whether the birth parent(s) present a continuing threat to their child and/or adoptive parent(s), and whether a plan for openness in adoption will meet the individual needs of the child;

(b) If parent(s) want to plan cooperatively and there is no approval for a legal assistance referral an exception can be made to allow for a referral for mediation using the criteria provided in OAR 413-600-0068.

(c) The child's caseworker must obtain from the birth parent(s) and from the adoptive parent(s), if no adoption worker is assigned, a signed DHS 2098 Authorization for Use and Disclosure of Non-Health Information and DHS 2099 Authorization for Use and Disclosure of Health Information to the mediator;

(d) To request mediation services funded through the Legal Assistance program, the child's caseworker, or in some cases, the adoptive parent(s)'s worker must make referrals for cooperative adoption mediation on the **CF 0437 Mediation Referral Form**. The child's caseworker, in consultation with the adoptive parent(s) worker, if assigned, must list on the Mediation Referral Form, benefits specific to the individual case and safety concerns that, if an agreement is reached, must be met in a written PACA. The form should be prepared with the understanding that the birth parent(s) and adoptive parent(s) will be receiving a copy of the form.

(e) The child's caseworker, and in some cases, the adoptive parent(s)'s worker, must provide to the mediator, on the **CF 437b Contact Information Form**, information of the mediation participants, and other collateral resources when applicable.

(7) In order to allow for informed decision-making by the adoptive parent(s) in the cooperative adoption mediation process, the adoption worker must:

(a) Provide the adoptive parent(s) with the case materials itemized on the **Form CF 963**;

(b) Review with the adoptive parent(s) the statement of benefits to the child for cooperative adoption planning listed on the **Cooperative Adoption Mediation Referral Form CF 0437**;

(c) Obtain from the adoptive parent(s) a signed Authorization of Use and Disclosure of **Non-Health Information Form DHS 2098** and a signed Authorization for Use and Disclosure of Health Information From DHS 2099 authorizing release of information to the mediator;

(d) Be responsible to contact the mediator if the adoption worker is assigned after the cooperative adoption mediation process has already begun.

(8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for

approval of funds disbursement. If funds are approved, Central office staff must notify the mediator that funds have been approved and that the mediation service may begin. (*See Flow Chart Box 6.*)

(9) A child welfare mediator contracted to provide cooperative adoption mediation must have the following responsibilities:

(a) The mediator must keep confidential all mediation communications. (ORS 36.220-25.238 and 410-006-0011);

(b) The mediator must accept referrals from the Department on the **Cooperative Mediation Referral Form CF 0437**;

(c) Within two weeks of receiving the CF 0437, the mediator must contact the child's worker and the adoption worker of the selected adoptive family for additional information on the case and further discussion of the Department's safety concerns, if needed (*See Flow Chart Box 7.*);

(d) After contacting the child's worker and the adoption worker, but within the two week of receiving the CF 0437, the mediator must contact the birth parent(s) and adoptive parent(s) to begin mediation services,

(e) The beginning of the mediation process, the mediator must inform the mediation participants about the mediation process, explain their role and responsibilities during the process, provide them with a copy of ORS 109.305, review the mediation referral form with the mediation participants and provide them with a copy, and if the mediation participants choose to continue in mediation, obtain their signature on the Agreement to Mediate Form (*See Flow Chart 8a.*);

(f) The mediator must make collateral contact with professionals involved in the case including, but not limited to, children's attorney, CASA, and birth and adoptive parent(s)' attorneys. If requested, the mediator must also keep informed, the Assistant Attorney General or Deputy District Attorney assigned to the case;

(g) If the mediation participants reach agreement and the mediation participants desire it, the mediator must draft a PACA. The PACA must address the mediation participant's issues and the documented safety concerns as set forth in the Mediation Referral Form (*See Flow Chart 9.*);

(h) The mediator must provide the draft PACA to the mediation participants and must encourage the mediation participants to review the draft with legal counsel;

(i) Once the mediation participants have approved the draft, the mediator must provide the child's worker with the proposed PACA for the review and concurrence that it meets the safety needs of the child.

(10) The Department has the following additional responsibilities:

(a) The child's caseworker must review the draft PACA solely for the purpose of assessing whether it will meet the safety needs of the child, as set forth in the Mediation Referral Form (*See Flow Chart Box 9.*);

(b) If the child's caseworker concludes that the PACA meets the safety needs of the child, the child's caseworker or other agency representative must sign the final PACA. (*Flow Chart Box 11(b).*)

(c) If the child's caseworker concludes that the PACA may not meet the safety needs of the child, the child's caseworker must notify the LAS. The LAS must inform the mediation participants in the form of written communication sent to the mediator ("LAS Notice"). The LAS Notice must state the continued safety concerns for the child. (*See Flow Chart Box 11(a).*)

(11) A contracted mediator has the following additional responsibilities:

(a) If the mediator is informed through a LAS Notice (*see Flow Chart, Box 11*) that the PACA does not meet the safety needs of the child, the mediator must set another mediation session with the mediation participants, and an agency representative, if requested by the mediation participants. The mediator may consult with the child's caseworker for clarification about the LAS Notice before setting the additional mediation session.

(b) If the additional mediation session results in a revised draft PACA, the mediator will repeat the processes outlined in (9)(g) through 10(c) in this rule.

(c) After the Department determines that the revised draft PACA meets the safety needs of the child, the mediator must arrange for the mediation participants and an agency representative to sign the agreement (*See Flow Chart 11(b).*);

(d) If no agreement can be reached, the mediator must send a letter summarizing the situation to Central Office with the final invoice.

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

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03

ADMINISTRATIVE RULES

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

Adm. Order No.: OMAP 72-2003(Temp)

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 11-1-03 thru 4-15-04

Notice Publication Date:

Rules Amended: 410-121-0140

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0140 will be temporarily amended to remove the language from definitions that requires unit dose and modified unit dose (institutional) pharmacies to credit OMAP for all unused medications.

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) Centers for Medicare and Medicaid Services(CMS) Federal upper limits for drug payment. These prices will be the upper limit on EAC for the CMS designated drugs as specified by OMAP;

(b) Oregon Maximum Allowable Cost (OMAC);

(c) Current AWP discount as designated in OAR 410-121-0155.

(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 DHS Seniors and People with Disabilities cluster 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 OMAP 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) OMAP will be billed for the date of dispensing within the timely filing limit;

(v) 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

ADMINISTRATIVE RULES

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 28-1982, f. 6-17-81, ef. 7-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82; AFS 54-1985(Temp), f. 9-23-85, ef. 10-1-85 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 11-1987, f. 3-3-87, ef. 4-1-87; AFS 2-1989(Temp), f. 1-27-89, cert. ef. 2-1-89; AFS 17-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 42-1989, f. & cert. ef. 7-20-89; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; Renumbered from 461-016-0010; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 461-016-0190; HR 52-1991(Temp), f. 11-29-91, cert. ef. 12-1-91; HR 6-1992, f. & cert. ef. 1-16-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 14-1993, f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; HR 6-1996(Temp), f. & cert. ef. 8-1-96; HR 27-1996, f. 12-11-96, cert. ef. 12-15-96; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 49-2001, f. 9-28-01, cert. ef. 10-1-01 thru 3-15-02; OMAP 59-2001, f. & cert. ef. 12-11-01; OMAP 37-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 9-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 18-2003(Temp), f. 3-14-03, cert. ef. 4-1-03 thru 9-1-03 (Suspended by OMAP 27-2003, f. 3-31-03, cert. ef. 4-1-03 thru 4-15-03); OMAP 32-2003(Temp), f. & cert. ef. 4-15-03 thru 9-15-03; OMAP 42-2003(Temp), f. 5-30-03, cert. ef. 6-1-03 thru 11-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 72-2003(Temp), f. 9-23-03, cert. ef. 11-1-03 thru 4-15-04

Adm. Order No.: OMAP 73-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 410-120-1230, 410-120-1580, 410-120-1600

Rules Repealed: 410-120-1235

Subject: The General Rules program administrative rules govern Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. Rule 410-120-1230 is amended to add clarifying language regarding provider billing and collection of copayments. Other rules listed above are amended to correct statutory references. OAR 410-120-1235 is repealed and the contents of the rule placed into OAR 120-1230.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-1230

Client Copayment

(1) Client Copayment – OHP Plus

(a) OHP Plus clients shall be responsible for paying a copayment for some services. This copayment shall be paid directly to the provider.

(b) The following services are exempt from copayment:

(A) Emergency services, as defined in OAR 410-120-0000;

(B) Family planning services and supplies;

(C) Prescription drugs ordered through Office of Medical Assistance Program's (OMAP) Mail Order Pharmacy program;

(D) Any service not listed in (3)(c) below.

(c) The following clients are exempt from copayments:

(A) Services provided to pregnant women;

(B) Children under age 19;

(C) Any client receiving services under the Home and Community based waiver and Developmental Disability waiver, or is an inpatient in a hospital, Nursing Facility (NF), Intermediate Care Facility for the Mentally Retarded (ICF/MR);

(D) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS), tribal organization or services provided at an Urban Tribal Health Clinic as provided under P.L. 93-638.

(d) Clients enrolled in an OMAP contracted managed care plan (Fully Capitated Health Plan, Dental Plan, or Mental Health Plan) will be exempt from copayments for any services paid for by their plan(s).

(e) Services to a client cannot be denied solely because of an inability to pay an applicable copayment. This does not relieve the client of the responsibility to pay, nor does it prevent the provider from attempting to collect any applicable copayments from the client; the amount is a legal debt, and is due and payable to the provider of service.

(f) A client must pay the copayment at the time service is provided unless exempted (see (b), (c) and (d) above).

(2) Client Copayment – OHP Standard

(a) OHP Standard clients eligible shall be responsible for paying a copayment for some services. This copayment shall be paid directly to the provider.

(b) The following services are exempt from copayment:

(A) Family planning services and supplies;

(B) Pap smears;

(C) Mammograms;

(D) Fecal occult blood test;

(E) Diagnostic sigmoidoscopy (over age 50);

(F) Total blood cholesterol screenings (age 35-64, men age 45-64, women);

(G) Preventive dental exams;

(H) Rubella serology or vaccinations for women of childbearing age;

(I) Tetanus and diphtheria (Td) boosters;

(J) Influenza immunizations;

(K) Pneumococcal vaccinations;

(L) Mental Health dosing/dispensing/case management;

(M) Chemical dependency dosing/dispensing/case management;

(N) Hospice services

(O) Administrative medical exams;

(P) Venipuncture;

(Q) Women's annual health examinations;

(R) Any service not listed in (3)(c) below.

(c) American Indian/Alaska Native (AI/AN) clients who are members of a federally recognized Indian tribe or receive services through Indian Health Services (IHS) tribal organization, or services provided at an Urban Tribal Health Clinic as provided under P.L. 93-638, are exempt from copayment requirements.

(d) It is the client's responsibility to pay the copayment at the time service is provided unless exempted. The provider may refuse services or request to reschedule the appointment if the client does not pay the copayment.

(3) The following is applicable to both OHP Plus and OHP Standard copayments.

(a) The provider should not deduct the copayment amount from the usual and customary fee submitted on the claim. DHS will deduct the amount of the copayment from the amount paid to the provider (whether or not provider collects the copayment from the client. If the OMAP paid amount is less than the required copayment, the copayment amount will be equal to what OMAP would have paid, unless the client or services is exempt according to exclusions listed in (2) and (3) above.

(b) Unless specified otherwise in individual program rules, and to the extent permitted under 42 CFR 1001.951 – 1001.952, a provider is not required by OMAP to bill or collect a copayment from the Medicaid recipient. The provider may choose not to bill or collect a copayment from a Medicaid recipient, however, the agency will still deduct the copayment amount from the Medicaid reimbursement made to the provider.

(c) Services which require copayments are listed in Table 120-1230-1. [ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 409

Stat. Implemented: 414.065

Hist.: OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 73-2003, f. & cert. ef. 10-1-03

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 pre-paid 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 410-120-1565, Provider Appeals – Appeal of Payment Decisions.

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(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; OMAP 73-2003, f. & cert. ef. 10-1-03

410-120-1600

Provider Appeals (Level 3) — Contested Case Hearings

Effective for services provided on or after December 1, 2000.

(1) OAR 410-120-1640, 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; OMAP 73-2003, f. & cert. ef. 10-1-03

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Adm. Order No.: OMAP 74-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 8-1-03

Rules Amended: 410-121-0157

Subject: The Pharmaceutical Services program rules govern Office of Medical Assistance Programs (OMAP) payments for services provided to clients. Rule 410-121-0157 is amended to reference the updated information regarding participating pharmaceutical companies to the Medicaid Drug Rebate Program, in compliance with federal regulations. Updates include information from CMS Release #123, date June 12, 2003.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0157

Participation in the Medicaid Drug Rebate Program

(1) The Oregon Medicaid Pharmaceutical Services Program is a participant in the Centers for Medicare and Medicaid Services (CMS) formerly Health Care Financing Administration (HCFA) Medicaid Drug Rebate Program, created by the Omnibus Budget Reconciliation Act (OBRA) of

1990. The Medicaid Drug Rebate Program requires a drug manufacturer to enter into and have in effect a national rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. The drug rebate program is administered by CMS's Center for Medicaid and State Operations (CMSO). Pharmaceutical companies participating in this program have signed agreements with CMS to provide rebates to OMAP on all their drug products. OMAP will reimburse providers only for outpatient drug products manufactured or labeled by companies participating in this program.

(2) Names and Labeler Code numbers for participants in the Medicaid Drug Rebate Program are the responsibility of and maintained by CMS. OMAP receives this information from CMS in the form of numbered and dated Releases. OMAP includes in rule by reference, Release #123, dated June 12, 2003 and the OMAP Master Pharmaceutical Manufacturer's Rebate Lists- Alphabetical and Numeric by Manufacturer. This information is available on OMAP's website: <http://www.dhs.state.or.us/policy/health-plan/rules/>, and on the CMS website: www.cms.hhs.gov/medicaid/drugs/drughmpg.asp, or by contacting CMS.

(3) OMAP contracts with First Health Services to manage the Medicaid Rebate Dispute Resolution program. Pharmacy providers must verify the accuracy of their Medicaid pharmacy claims with First Health Services within 30 days of request in instances where drug manufacturers dispute their claim information. Verification can be photocopies of drug invoices showing that the billed products were in stock during the time of the date of service.

(4) The actual NDC dispensed and the actual Metric decimal quantity dispensed, must be billed.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 16-1991(Temp), f. 4-12-91, cert. ef. 4-15-91; HR 22-1991, f. & cert. ef. 5-16-91; HR 23-1991(Temp), f. 6-14-91, cert. ef. 6-17-91; HR 31-1991, f. & cert. ef. 7-16-91; HR 36-1991(Temp), f. 9-16-91, cert. ef. 10-1-91; HR 45-1992, f. & cert. ef. 10-16-91; HR 50-1991(Temp), f. & cert. ef. 10-29-91; HR 1-1992, f. & cert. ef. 1-2-92; HR 13-1992, f. & cert. ef. 6-1-92; HR 21-1992, f. 7-31-92, cert. ef. 8-1-92; HR 31-1992, f. & cert. ef. 10-1-92; HR 34-1992, f. & cert. ef. 12-1-92; HR 4-1993, f. 3-10-93, cert. ef. 3-11-93; HR 7-1993 (Temp), f. & cert. ef. 4-1-93; HR 14-1993, f. & cert. ef. 7-2-93; HR 24-1993, f. & cert. ef. 10-1-93; HR 17-1994, f. & cert. ef. 4-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2000(Temp), f. 12-29-00, cert. ef. 1-1-01 thru 5-1-01; OMAP 3-2001, f. & cert. ef. 3-16-01; OMAP 24-2001(Temp), f. 5-9-01, cert. ef. 5-10-01 thru 11-1-01; OMAP 25-2001(Temp), f. 6-28-01, cert. ef. 7-1-01 thru 12-1-01; OMAP 27-2001(Temp), f. 7-30-01, cert. ef. 8-1-01 thru 1-26-02; OMAP 48-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-1-02; OMAP 56-2001(Temp), f. & cert. ef. 11-1-01 thru 4-15-02; OMAP 57-2001(Temp), f. 11-28-01, cert. ef. 12-1-01 thru 4-15-02; OMAP 66-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 4-2002(Temp), f. & cert. ef. 3-5-02 thru 8-1-02; OMAP 16-2002(Temp), f. & cert. ef. 4-12-02 thru 9-1-02; OMAP 20-2002(Temp), f. & cert. ef. 5-15-02 thru 10-1-02; OMAP 34-2002(Temp), f. & cert. ef. 8-14-02 thru 1-15-03; OMAP 67-2002(Temp), f. & cert. ef. 11-1-02 thru 3-15-03; OMAP 6-2003(Temp), f. & cert. ef. 2-14-03 thru 7-1-03; OMAP 38-2003, f. & cert. ef. 5-9-03; OMAP 39-2003(Temp), f. & cert. ef. 5-15-03; OMAP 48-2003, f. & cert. ef. 7-7-03; OMAP 74-2003, f. & cert. ef. 10-1-03

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Adm. Order No.: OMAP 75-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 410-121-0300

Subject: The Pharmaceutical Rules govern Office of Medical Assistance Programs payment for pharmaceutical products provided to clients. Rule 410-121-0300 is amended to update the CMS Federal Upper Limits for Drug Payments listing. This filing is to update Transmittal #37, with Title XIX State Agency Letter Number 03-04, changes to be effective August 24, 2003, to revise drug products information in compliance with federal regulations from Centers for Medicare and Medicaid Services (CMS).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0300

CMS Federal Upper Limits for Drug Payments

(1) The CMS Federal Upper Limits for Drug Payments listing of multiple source drugs meets the criteria set forth in 42 CFR 447.332 and 1927(e) of the Act as amended by OBRA 1993. The development of the current Federal Upper Limit (FUL) listing has been accomplished by computer. Payments for multiple source drugs must not exceed, in the aggregate, payment levels determined by applying to each drug entity a reasonable dispensing fee (established by the State and specified in the State Plan), plus an amount based on the limit per unit which CMS has deter-

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mined to be equal to a 150 percent applied to the lowest price listed (in package sizes of 100 units, unless otherwise noted) in any of the published compendia of cost information of drugs. The FUL drug listing is published in the State Medicaid Manual, Part 6, Payment for Services, Addendum A. The most current Transmittals and subsequent changes are posted to the CMS website at http://www.cms.hhs.gov/medicaid/drugs/drug_10.asp. The FUL price listing will be updated approximately every six months.

(2) The most current CMS Federal Upper Limits for Drug Payments Listing, includes changes to Transmittal #37, Title XIX State Agency Letter Number 03-04, with changes to be effective August 24, 2003, and is available for downloading on OMAP's Website, (<http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/>). To request a hard copy, call OMAP.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 63-1989(Temp), f. & cert. ef. 10-17-89; AFS 79-1989, f. & cert. ef. 12-21-89; HR 3-1990(Temp), f. & cert. ef. 2-23-90; HR 13-1990, f. & cert. ef. 4-20-90; Renumbered from 461-16-330; HR 20-1990, f. & cert. ef. 7-9-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 45-1990, f. & cert. ef. 12-28-90; HR 10-1991, f. & cert. ef. 2-19-91; HR 37-1991, f. & cert. ef. 9-16-91; HR 13-1992, f. & cert. ef. 6-1-92; HR 28-1992, f. & cert. ef. 9-1-92; HR 35-1992(Temp), f. & cert. ef. 12-1-92; HR 1-1993(Temp), f. & cert. ef. 1-25-93; HR 3-1993, f. & cert. ef. 2-22-93; HR 5-1993(Temp), f. 3-10-93, cert. ef. 3-22-93; HR 8-1993(Temp), f. & cert. ef. 4-1-93; HR 11-1993, f. 4-22-93, cert. ef. 4-26-93; HR 15-1993(Temp), f. & cert. ef. 7-2-93; HR 20-1993, f. & cert. ef. 9-1-93; HR 25-1993(Temp), f. & cert. ef. 10-1-93; HR 14-1994, f. & cert. ef. 3-1-94; HR 25-1994, f. & cert. ef. 7-1-94; HR 2-1995, f. & cert. ef. 2-1-95; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 14-1995, f. 6-29-95, cert. ef. 7-1-95; HR 23-1995, f. 12-29-95, cert. ef. 1-1-96; HR 22-1997, f. & cert. ef. 10-1-97; HR 27-1997, f. & cert. ef. 12-1-97; OMAP 2-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 43-1998(Temp), f. & cert. ef. 11-20-98 thru 5-1-99; OMAP 58-1999, f. & cert. ef. 2-26-99; OMAP 42-2000(Temp), f. & cert. ef. 12-15-00 thru 5-1-01; OMAP 1-2001(Temp), f. & cert. ef. 2-1-01 thru 6-1-01; OMAP 2-2001(Temp), f. 2-14-01, cert. ef. 2-15-01 thru 7-1-01; OMAP 18-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 23-2001(Temp), f. & cert. ef. 4-16-01 thru 8-1-01; OMAP 26-2001(Temp), f. & cert. ef. 6-6-01 thru 1-2-02; OMAP 51-2001(Temp), f. 9-28-01, cert. ef. 10-1-01 thru 3-15-01; OMAP 58-2001, f. 11-30-01, cert. ef. 12-1-01; OMAP 67-2001(Temp), f. 12-28-01, cert. ef. 1-1-02 thru 5-15-02; OMAP 3-2002(Temp), f. & cert. ef. 2-15-02 thru 6-15-02; OMAP 5-2002(Temp), f. & cert. ef. 3-5-02 thru 6-15-02; OMAP 19-2002(Temp), f. & cert. ef. 4-22-02 thru 9-15-02; OMAP 29-2002(Temp), f. 7-15-02, cert. ef. 8-1-02 thru 1-1-03; OMAP 71-2002(Temp), f. & cert. ef. 12-1-02 thru 5-15-03; OMAP 10-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 11-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 8-15-03; OMAP 41-2003, f. & cert. ef. 5-29-03; OMAP 51-2003, f. & cert. ef. 8-5-03; OMAP 54-2003(Temp), f. & cert. ef. 8-15-03 thru 1-15-03; OMAP 75-2003, f. & cert. ef. 10-1-03

Adm. Order No.: OMAP 76-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 410-122-0030, 410-122-0203, 410-122-0208, 410-122-0630

Subject: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DME) Program Administrative Rules govern the Office of Medical Assistance Program (OMAP) payments for products and services provided to clients. Rule 410-122-0030 is being revised to address pricing pursuant to Oregon Health Plan Cost Containment measures. Rule 410-122-0203 is revised to give a 30-day time window to oxygen supply providers to collect Certificate of Medical Necessity (CMN) and to transition clients to Fee for Service (FFS), pursuant to requests by oxygen supply providers, industry association, and dialogue by CIGNA. Rule 410-122-0208 is a housekeeping revision to add the word "rental" to gastric suction pump pursuant to the OMAP fee schedule. Rule 410-122-0630 is revised to address incontinence supply categories and quantity specifications pursuant to OMAP, industry requests, and Statistical Analysis Durable Medical Regional Carrier (SADMERC) guideline.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-122-0030

Pricing

(1) The Office of Medical Assistance Programs (OMAP) will reimburse for the lowest level of service, which will meet the medical appropriateness.

(2) Rental fees include:

- (a) Delivery;
- (b) Training in the use of the equipment;
- (c) Pick-up;
- (d) Routine service, maintenance and repair;
- (e) Moving equipment to new residence, if coverage is to continue.

(3) Purchase price includes delivery, assembly, adjustments, if needed, and training in the use of the equipment or supply.

(4) Repair of equipment includes pick-up and delivery. Travel time shall not be billed to OMAP or the client.

(5) OMAP payment will be based on either OMAP's maximum allowable rate or billed rate whichever is the lesser. Pricing for E1399 and K0108 is addressed respectively in section (6) and (7) of this rule. For situations involving Medicare, Third Party Resource (TPR) or Alternate Resource, see General rules OAR 410-120-1280 (Billing) and 410-120-1340 (Payment).

(6) E1399:

(a) E1399 shall be reimbursed at 80% (eighty percent) of Manufacturer's Suggested Retail price (MSRP) up to the maximum reimbursable amount of \$2,500. Total reimbursement is capped at \$2,500 (Two thousand five hundred dollars) per line item. See example in Table 0030-1;

(b) When no MSRP is available through manufacturer, provider (supplier or vendor or retailer) must submit one of the following to OMAP and specify price per individual piece of an item:

- (A) Manufacturer's invoice; or
- (B) Manufacturer's wholesale price; or
- (C) Manufacturer's list price; or
- (D) Acquisition cost (includes shipping); or
- (E) Cost factor; or
- (F) Manufacturer's bill to provider.

(c) Reimbursement shall be calculated as manufacturer's invoice, wholesale price, list price, acquisition cost, cost factor or bill to provider, whichever is the lowest plus 20% (twenty percent) of bill (invoice price or wholesale price or list price or acquisition cost or cost factor) up to the maximum reimbursable amount of \$2,500. Total reimbursement is capped at \$2,500 per line item. See example in Table 0030-2;

(d) When neither MSRP nor manufacturer's invoice price, wholesale price, list price, acquisition cost, cost factor or bill to provider is available, provider shall submit an "estimated price" of an item as expected by provider and stipulated between manufacturer and provider. Reimbursement shall be calculated as estimated price plus 20% of estimated price up to the maximum reimbursable amount of \$2,500 per line item;

(e) For an item billed at or above \$100: When requesting prior authorization, provider (supplier or vendor or retailer) must submit either a copy of manufacturer's invoice, wholesale price, list price, acquisition cost, cost factor, bill or estimated price to provider as expected from manufacturer, manufacturer's part number and item description. Depending on the case, OMAP may require item picture (s), which provider shall submit;

(f) For any item billed under E1399 code, provider must submit verification of E1399 code through organization such as SADMERC (Statistical Analysis Durable Medical Equipment Regional Carrier) or AOPA (American Orthotic & Prosthetic Association) when no specific HCPCS code is available for that item and item category is not specified in current OMAP – DME rules (OAR 410 division 122 rules);

(g) When an item is specifically addressed as related to E1399 code in current OMAP – DME rules, OAR 410-122-0190, 410-122-0208, 410-122-0250, 410-122-0365, 410-122-0375 and 410-122-0580, no SADMERC or AOPA clarification is required;

(h) Manufacturer's part number (MPN) is described in section 8 of this rule;

(i) When a line item MSRP is expected to be higher than \$3,120 or manufacturer's bill or invoice cost plus 20% is expected to be higher than \$2,500, provider shall submit documents showing less expensive alternative looked at by prescriber. Prescriber shall document the reason less expensive alternative is not medically appropriate since equipment was considered and not requested, expected hours per day usage of new equipment, hours of usage of current equipment, if any and expected change in outcome. The item will be reviewed by OMAP on a case by case basis.

(7) K0108:

(a) K0108 shall be reimbursed at 80% of MSRP up to the maximum reimbursable amount of \$1,000. Total reimbursement is capped at \$1,000 per line item;

(b) When no MSRP is available through manufacturer, provider (supplier or vendor or retailer) must submit one of the following to OMAP and specify price per individual piece of an item:

- (A) Manufacturer's invoice; or
- (B) Manufacturer's wholesale price; or
- (C) Manufacturer's list price; or
- (D) Acquisition cost (includes shipping); or
- (E) Cost factor; or
- (F) Manufacturer's bill to provider.

(c) When no MSRP is available, reimbursement shall be manufacturer's invoice, wholesale price, acquisition cost, list price, cost factor or bill

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to provider, whichever is the lowest plus 20% of the bill up to the maximum reimbursable amount of \$1,000 per line item;

(d) When requesting prior authorization, provider (supplier or vendor) must submit copy of manufacturer's invoice, wholesale price, acquisition cost, list price, cost factor or bill to provider, manufacturer's part number and item description. Depending on the case, OMAP may require item picture(s), which provider shall submit;

(e) When neither MSRP nor manufacturer's invoice, wholesale price, acquisition cost, list price, cost factor or bill to provider is available, provider shall submit an "estimated price" of an item as expected by provider and stipulated between manufacturer and provider. Reimbursement shall be calculated as estimated price plus 20% of estimated price up to the maximum reimbursable amount of \$1,000 per line item.

(f) Manufacturer's part number (MPN) is described in section 8 of this rule.

(g) When a line item MSRP is expected to be higher than \$1,250 or manufacturer's bill or invoice cost plus 20% is expected to be higher than \$1,000, provider shall submit documents showing less expensive alternative looked at by prescriber. Prescriber shall document the reason less expensive alternative was not medically appropriate since equipment was considered but not requested, expected hours per day usage of new equipment, hours of usage of current equipment, if any and expected change in outcome. The item will be reviewed by OMAP on a case by case basis.

(8) Manufacturer Part Number (MPN)

(a) Each manufacturer provides a Manufacturer Part Number (MPN) to identify that manufacturer's part. It is a specification used by manufacturer to store a part in an illustrated part catalog (graphics and text).

(b) MPN uniquely identifies a part when used together with Manufacturer code (External Manufacturer), which is the own name used by the manufacturer and not the manufacturer name provided by other.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: AFS 9-1993, f. & cert. ef. 4-1-93; HR 18-1993, f. & cert. ef. 8-9-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 26-1994, f. & cert. ef. 7-1-94; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 69-2002(Temp), f. 11-15-02, cert. ef. 12-1-02 thru 5-1-03; OMAP 36-2003, f. & cert. ef. 5-1-03; OMAP 76-2003, f. & cert. ef. 10-1-03

410-122-0203

Oxygen and Oxygen Equipment

(1) Children (under age 21):

(a) Coverage Criteria: Prescribing practitioner must determine medical appropriateness;

(b) Documentation: DME providers must retain documentation of medical appropriateness from prescribing practitioner.

(2) Adults: Coverage Criteria:

(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) Laboratory Evidence:

(a) Group I:

(A) Coverage criteria includes any of the following:

(i) An arterial PO₂ at or below 55 mm Hg or an arterial oxygen saturation at or below 88 percent taken at rest (awake); or

(ii) 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

(iii) 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

(iv) 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 I criteria is limited to 12 months or the prescribing practitioner-specified length of need, whichever is shorter.

(b) Group II:

(A) Coverage – criteria include the presence of:

(i) 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 I criteria); and

(ii) 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.

(c) 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%.

(d) Blood Gas Study:

(A) The qualifying blood gas study must be performed by a CLIA (Clinical Laboratory Improvement Amendments) 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;

(E) 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;

(F) 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;

(G) When 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, coverage would resume beginning with the date of that test if that test meets Group I or II criteria;

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(H) 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;

(I) For any Revised CMN, the blood gas study reported on the CMN must be the most recent test performed prior to the Revised date;

(J) 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;

(K) Oxygen Saturation (Oximetry) Tests – Must not be performed by the DME supplier or anyone financially associated with or related to the DME supplier.

(4) 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.

(5) Standby Oxygen: Oxygen PRN or oxygen as needed is not covered.

(6) Topical Oxygen: Oxygen for topical use is not covered.

(7) Documentation:

(a) Certificate of Medical Necessity (CMN) is a required documentation to support the medical indication;

(b) The Certificate of Medical Necessity (CMN) form 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;

(c) Initial CMN is required: Prior to billing; provider (supplier or vendor) shall keep documentation on file showing their communication with prescriber to obtain CMN prior to delivery; If more than 3 months pass between the “initial date” of the CMN or the time a CMN is completed and signed by the physician, and the item being ordered is delivered to client, a new completed and signed CMN is required;

(C) 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;

(D) 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;

(E) 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) 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.

(e) 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.

(f) 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).

(8) Oxygen users before March 1, 1991, will continue to receive services and are not subject to the above criteria.

(9) For client entering OMAP FFS (Fee-For-Service) from either Fully Capitated Health Plan (FCHP), Managed Care Organization (MCO/HMO/Health Plan), ASO (Administrative Service Organization), PCO (Physician Care Organization) or from non-OMAP FFS: An initial CMN must be obtained by provider (supplier or vendor), however the blood gas study on the initial CMN does not have to be obtained within 30 days prior to the initial date, but must be the most recent study obtained while the patient was either in the Fully Capitated Health Plan (FCHP), Managed Care Organization (MCO/HMO/Health Plan), ASO (Administrative Service Organization), PCO (Physician Care Organization) or from non-OMAP FFS under the testing guideline specified in sections (3) through section (7) of this rule. Provider (supplier or vendor) must follow the requirement for recertification and revised CMN if that applies per section (7) of this rule.

(10) Procedure Codes

(a) 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.

(b) 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.

(c) 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.

(d) 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;

(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;

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(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.

(e) 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 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 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 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.

Table 122-0203 not included. See Ed. Note.

[ED. NOTE: Table referenced is 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; OMAP 76-2003, f. & cert. ef. 10-1-03

410-122-0208

Suction Pumps

(1) Coverage Criteria:

(a) Use of a home model suction machine is covered for a client who has 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 OAR 410-122-0209 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) 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 oropharyngeal 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 or rent. Item considered purchased after 16 months of rent. Table 122-0208 not included. See Ed. Note.

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.: 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; OMAP 76-2003, f. & cert. ef. 10-1-03

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 (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) 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 150 units 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 client under 3 years of age for incontinence (fecal or urinary).

(c) A4927, Gloves, non-sterile, per 100 (50 pairs) – OMAP will purchase:

- (A) Limited to 400 units (Total 400 count or 200 pairs) 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-sized Supplies:

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(a) A4529, Child-sized incontinence product, diaper, small / medium size, each – PA required – OMAP will purchase not covered for child under three years of age. Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads)

(b) A4530, Child-sized incontinence product, diaper, large size, each – PA required – OMAP will purchase;

(A) Not covered for child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads)

(c) A4531, Child-sized incontinence product, brief, small/medium size, each – PA required – OMAP will purchase:

(A) Not covered for child under three years of age;

(B) Not covered for nocturnal enuresis;

(C) Limited to 100 units per month, based on medical appropriateness.

(d) A4532, Child-sized incontinence product, brief, large size, each – PA required – OMAP will purchase:

(A) Not covered for child under three years of age;

(B) Not covered for nocturnal enuresis;

(C) Limited to 100 units per month, based on medical appropriateness.

(4) Disposable Adult-sized Supplies:

(a) A4533, Youth-sized incontinent product, diaper, each – PA required – OMAP will purchase:

(A) Not covered for child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) 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 child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) 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 child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) 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 child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) 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 child under three years of age;

(B) Limited to 360 units per month, based on medical appropriateness, of any combination of products (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(5) Disposable Protective Underwear:

(a) Coverage Criteria: Item covered if it meets the following criteria:

(A) Fecal or urinary incontinence; 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 incontinence;

(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 units per month;

(ii) Not covered for child under three years of age;

(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 units per month;

(ii) Not covered for child under three years of age;

(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 units per month;

(ii) Not covered for child under three years of age;

(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 units per month;

(ii) Not covered for child under three years of age;

(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 units per month;

(ii) Not covered for child under three years of age;

(iii) Not covered for nocturnal enuresis.

(6) Washable Incontinent Supplies:

(a) A4536, Protective underwear, washable, any size, each – PA required – OMAP will purchase;

(A) Not covered for child under three years of age,

(B) Limited to 12 units per 12 months.

(b) A4537, Underpad, reusable, washable, any size, each – PA required – OMAP will purchase:

(A) Not covered for child under three years of age;

(B) Limited to 8 units per 12 months,

(c) Washable underpad (A4537) and disposable underpad (A4554) should not be covered at the same time.

(d) Washable brief/protective underwear (A4536) and disposable brief (A4525, A4526, A4527, A4528, A4531, A4532 and A4534) may be covered at the same time when the disposable briefs are used for trips like visit to doctor or visit to physical therapist etc. The number of units must not exceed the limit.

(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 (including miscellaneous incontinent supply, adult-sized, child-sized or youth-sized disposable diaper, disposable liner or shield and disposable and washable brief but excluding underpads) unless documentation supporting increased medically appropriate usage is sent to OMAP for review and PA.

(c) Quantity delivered by provider must match prior authorized units.

(d) Service provider must document proof of delivery to the client. Delivery receipt must show signature as well as name of signer.

(8) Quantity specification:

(a) For prior authorization (PA) and reimbursement purpose, a unit count is considered as single or individual piece of an item and not as multiple quantity;

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(b) If an item quantity is listed as number of boxes or case or carton, total number of individual pieces of that item contained within that respective measurement (box or case or carton) must be specified in the unit column on PA request form. See table 122-0630-1;

(9) Incontinence product categories: See Table 122-0630-2;

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 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; OMAP 76-2003, f. & cert. ef. 10-1-03

Adm. Order No.: OMAP 77-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 410-127-0060

Subject: The Home Health Program Administrative Rules govern the Office of Medical Assistance Programs (OMAP) payments for products and services provided to clients. OMAP will revise Rule 410-127-0060 to update the reimbursement methodology and implement a new fee schedule for Home Health providers pursuant to budget note attached to Senate Bill 5527 (2001).

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-127-0060

Reimbursement and Limitations

(1) Reimbursement. The Office of Medical Assistance Programs (OMAP) reimburses home health services on a fee schedule (see table 127-0060) basis by type of visit. Effective October 1, 2003, reimbursement rates were recalculated using a methodology that includes actual cost as reported on Medicare Cost Reports and the application of the DRI – WEFA home health trend rates (as recommended by OMAP's independent actuary). This budget-neutral fee schedule is based on OMAP home health reimbursement rates set as a percentage of cost.

(2) Future reimbursement rate changes, if applicable, will be calculated by applying an administratively determined percentage to each service rate to determine the new rate.

(3) OMAP reimburses only for service, which is medically appropriate.

(4) Limitations:

(a) Limits of Covered Services:

(A) Skilled nursing visits are limited to two visits per day with payment authorization;

(B) All therapy services are limited to one visit or evaluation per day for physical therapy, occupational therapy or speech and language pathology services. Therapy visits require payment authorization;

(C) OMAP will authorize home health visits for clients with uterine monitoring only for medical problems, which could adversely affect the pregnancy and are not related to the uterine monitoring;

(D) Medical supplies must be billed at acquisition cost and the total of all medical supplies revenue codes may not exceed \$75 per day. Only supplies that are used during the visit are billable. Clients visit notes must include documentation of supplies used;

(E) Durable medical equipment must be obtained by the client by prescription through a durable medical equipment provider.

(b) Not Covered Service:

(A) Service not medically appropriate;

(B) A service whose diagnosis does not appear on a line of the Prioritized List of Health Services which has been funded by the Oregon Legislature (OAR 410-141-0520);

(C) Medical Social Worker Service;

(D) Registered dietician counseling or instruction;

(E) Drug and or Biological;

(F) Fetal Non-Stress Testing;

(G) Respiratory therapist service;

(H) Flu shot;

(I) Psychiatric Nursing Service.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; PWC 854(Temp), f. 9-30-77, ef. 10-1-77 thru 1-28-78; Renumbered from 461-019-0420 by Chapter 784, Oregon Laws 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90; Renumbered from 411-075-0010; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 77-2003, f. & cert. ef. 10-1-03

Adm. Order No.: OMAP 78-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Adopted: 410-130-0587

Subject: The Medical Surgical program administrative rules govern the Office of Medical Assistance Programs (OMAP) payment for services provided to clients. Due to HIPAA requirements, use of unique encounter codes for family planning services by Family Planning Clinics will end September 30, 2003 and a new HCPCS encounter code will be implemented October 1, 2003. Rule 410-130-0595 will be adopted to specify use of code by Family Planning Clinics and instructions to bill family planning supplies and labs separately.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-130-0587

Family Planning Clinic Services

(1) This rule is to be used only by family planning clinics.

(2) Family planning clinics are governmental agencies that receive Title X funding from the state for family planning (FP) services and non-governmental providers who have contractual agreements approved by the Office of Family Health to provide family planning services.

(3) Family planning clinics will be reimbursed an encounter rate only for all FP services where the primary purpose of the visit is for family planning.

(4) Bill HCPCS code T1015 "Clinic visit/encounter, all-inclusive; family planning" for all encounters where the primary purpose of the visit is contraceptive in nature.

(a) This encounter code includes the visit and any procedure or service performed during that visit including:

(A) Annual family planning exams;

(B) Family planning counseling;

(C) Insertions and removals of implants and IUDs;

(D) Diaphragm fittings;

(E) Dispensing of contraceptive supplies and medications;

(F) Contraceptive injections.

(b) Do not bill procedures, such as IUD insertions, diaphragm fittings or injections, with CPT or other HCPCS codes;

(c) Bill only one encounter per date of service;

(d) Reimbursement for educational materials is included in T1015 and are not billable separately.

(5) Reimbursement for T1015 does not include payment for FP supplies and medications.

(a) Bill FP supplies and medications separately using HCPCS codes. Where there are no specific HCPCS codes, use an appropriate HCPCS code and bill at acquisition cost.

(b) Add modifier FP only after codes that are not specific to contraceptive supplies or medications. For example, add modifier FP after unclassified drug code J3490 when there is no specific code for a drug.

(c) Refer to Table 130-0585-1 for more details.

(6) Reimbursement for T1015 does not include laboratory tests.

(a) Clinics and providers who perform lab tests in their clinics and are CLIA certified to perform those tests may bill CPT and HCPCS lab codes in addition to T1015;

(b) Add modifier FP after lab codes to indicate that the lab was performed during a FP encounter;

(c) Labs sent to outside laboratories, such as PAP smears, can be billed only by the performing laboratory.

(7) Encounters where the primary purpose of the visit is not contraceptive in nature, use appropriate CPT codes and do not add modifier FP.

(8) When billing for services provided to clients enrolled in a Managed Care Organization, mark the family planning Box 24 H on the CMS-1500 billing form.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: OMAP 78-2003, f. & cert. ef. 10-1-03

Adm. Order No.: OMAP 79-2003(Temp)

Filed with Sec. of State: 10-2-2003

Certified to be Effective: 10-2-03 thru 3-15-04

Notice Publication Date:

Rules Amended: 410-141-0480, 410-141-0500, 410-141-0520

ADMINISTRATIVE RULES

Subject: The Oregon Health Plan (OHP) Services program rules govern Office of Medical Assistance Programs payment for services provided to clients. Rule 410-141-0520 incorporates in rule by reference the Oregon Health Services Commission's Prioritized List of Health Services (Prioritized List). Rule 410-141-0520 is temporarily revised to incorporate the most current updates to the Prioritized List, effective October 1, 2003. Rules 410-141-0480 and 410-141-0500 are revised to reflect this information.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0480

Oregon Health Plan Benefit Package of Covered Services

(1) OMAP Members are eligible to receive, subject to Section (12) of this rule, those treatments for the condition/treatment pairs funded on the Oregon Health Services Commission's Prioritized List of Health Services adopted under OAR 410-141-0520 when such treatments are Medically or Dentally appropriate, except that services must also meet the prudent layperson standard defined in OAR 410-141-0140. Refer to 410-141-0520 section (4) for funded line coverage information.

(2) Diagnostic Services that are necessary and reasonable to diagnose the presenting condition of the OMAP Member are covered services, regardless of the placement of the condition on the Prioritized List of Health Services.

(3) Comfort care is a covered service for an OMAP Member with a Terminal Illness.

(4) Preventive Services promoting health and/or reducing the risk of disease or illness are covered services for OMAP Members. Such services include, but are not limited to, periodic medical and dental exams based on age, sex and other risk factors; screening tests; immunizations; and counseling regarding behavioral risk factors. (See Prioritized List of Health Services, adopted in OAR 410-141-0520).

(5) Ancillary Services are covered, subject to the service limitations of the Medical Assistance Program rules and Provider guides, when the services are Medically or Dentally Appropriate for the treatment of a covered condition-treatment pair, or the provision of ancillary services will enable the OMAP Member to retain or attain the capability for independence or self-care. A list of Ancillary Services is included in the Prioritized List of Health Services, adopted in OAR 410-141-0520.

(6) The provision of Chemical Dependency Services must be in compliance with the Office of Mental Health and Addiction Services (OMHAS) Administrative Rules, OAR 415-020-0000 to 0090 and 415-051-0000 to 0130 and the Chemical Dependency Prepaid Health Plan Standards in the Fully Capitated Health Plan Contract.

(7) In addition to the coverage available under section (1) of this rule, an OMAP Member may be eligible to receive, subject to section (12) services for treatments which are below the funded line or not otherwise excluded from coverage:

(a) Services can be provided if it can be shown that:

(A) The OHP Client has a funded condition for which documented clinical evidence shows that the funded treatments are not working or are contraindicated; and

(B) Concurrently has a medically related unfunded condition that is causing or exacerbating the funded condition; and

(C) Treating the unfunded medically related condition would significantly improve the outcome of treating the funded condition;

(D) Ancillary Services that are excluded and other services that are excluded are not subject to consideration under this rule;

(E) Any unfunded or funded co-morbid conditions or disabilities must be represented by an ICD-9-CM diagnosis code or when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity; and

(F) In order for the treatment to be covered, there must be a medical determination and finding by OMAP for fee-for-service OHP Clients or a finding by the Prepaid Health Plan (PHP) for OMAP Members that the terms of section (a)(A)-(C) of this rule have been met based upon the applicable:

- (i) Treating physician opinion;
- (ii) Medical research;
- (iii) Community standards; and
- (iv) Current peer review.

(b) Before denying treatment for an unfunded condition for any OMAP Member, especially an OMAP Member with a disability or with a comorbid condition, Providers must determine whether the OMAP Member has a funded condition and paired treatment that would entitle the OMAP Member to treatment under the program and both the funded and unfunded

conditions must be represented by an ICD-9-CM diagnosis code; or, when the condition is a mental disorder, represented by DSM-IV diagnosis coding to the highest level of axis specificity.

(8) OMAP shall maintain a telephone information line for the purpose of providing assistance to Practitioners in determining coverage under the Oregon Health Plan Benefit Package of covered services. The telephone information line shall be staffed by registered nurses who shall be available during regular business hours. If an emergency need arises outside of regular business hours, OMAP shall make a retrospective determination under this subsection, provided OMAP is notified of the emergency situation during the next business day. If OMAP denies a requested service, OMAP shall provide written notification and a notice of the right to an Administrative Hearing to both the OHP Client and the treating physician within five working days of making the decision.

(9) PHPs shall provide written notification of PHP determinations related to sections (1)-(7)(a) and (b) of this rule when such determinations result in a denial of requested services or denial of payment for services which have been obtained: If, as the result of a complaint or request for Administrative Hearing, OMAP determines a service is covered and the Oregon Health Plan Client is enrolled in a PHP that is required to provide the service as a Capitated Service, OMAP shall, within five working days of making a decision, provide written notification to the PHP.

(10) Oregon Health Plan Clients or Practitioners, on behalf of Oregon Health Plan Clients, may request an Administrative Hearing to appeal OMAP decisions made related to section (7) of this rule:

(a) Requests for Administrative Hearings may be made orally to the OMAP Medical Director or his or her designee when an OMAP Member's condition warrants an expedited decision, OMAP shall respond in a timely manner determined by the nature of the circumstance and in no event greater than ten (10) working days after receiving notice of the oral request for expedited decision;

(b) Requests for Administrative Hearing, appealing OMAP decisions, other than those subject to section (10)(a), must be written. Written Appeals may be made through the client Administrative Hearings process or the Provider Appeals process and shall be responded to within the timelines of those processes in accordance with OAR 410-120-1560 through 410-120-1840.

(11) If a condition/treatment pair is not on the Health Services Commission's list of prioritized services and OMAP determines the condition/treatment pair has not been identified by the Commission for inclusion on the list, OMAP shall make a coverage decision in consultation with the Health Services Commission.

(12) Coverage of services available through the Oregon Health Plan Benefit Package of Covered Services is limited by OAR 410-141-0500, Excluded Services and Limitations for Oregon Health Plan Clients.

(13) General anesthesia for dental procedures which are Medically and/or Dentally Appropriate to be performed in a hospital or ambulatory surgical setting, is to be used only for those OMAP Members with concurrent needs: age, physical, medical or mental status, or degree of difficulty of the procedure as outlined below:

(a) Children under three years old with dental needs determined by the dentist or oral surgeon as requiring general anesthesia;

(b) Children over three years old requiring substantial dental care determined by the dentist or oral surgeon as requiring general anesthesia that may protect the child from unnecessary trauma;

(c) OMAP Members with physical, mental or medically compromising conditions;

(d) OMAP Members with dental needs for who local anesthesia is ineffective because of acute infection, anatomic variations, or allergy;

(e) Acute situational anxiety, fearfulness, extremely uncooperative or uncommunicative client with dental needs, determined by the dentist or oral surgeon, sufficiently important that dental care cannot be deferred;

(f) OMAP Members who have sustained extensive orofacial and dental trauma; or

(g) OMAP Members with dental needs who otherwise would not obtain necessary dental care when, in the decision of the dentist or oral surgeon, the need for dental treatment outweighs the risks of general anesthesia. The OMAP Member's dental record must clearly document the justification for the level of anesthesia and why, in the estimation of the dentist or oral surgeon, the treatment in an office setting is not possible.

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; 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 15-1997, f. & cert. ef. 7-1-97; HR 26-1997, f. & cert. ef. 10-1-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98;

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OMAP 39-1998, f. & cert. ef. 10-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04

410-141-0500

Excluded Services and Limitations for Oregon Health Plan Clients and/or OMAP Members

(1) The following services are excluded:

(a) Any service or item identified in OAR 410-120-1200 and 410-120-1210, Excluded Services and Limitations. Services that are excluded under the Oregon Medical Assistance program shall be excluded under the Oregon Health Plan;

(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 included on the 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). Refer to 410-141-0520 section (4) for funding line coverage information;

(d) Services that are currently funded on the Prioritized List of Health Services that are not included in the OHP Client's and/or OMAP Member'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 non-covered condition/ treatment pair;

(g) Services requested by Oregon Health Plan (OHP) Clients and/or OMAP Member's 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 and/or OMAP Member 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 and/or OMAP Member 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 OMAP 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 that are 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 and 410-120-1210, Excluded Services and Limitations. Services that are limited under the Oregon Medical Assistance program shall be limited under the Oregon Health Plan.

(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

(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; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04

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, 2003, 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 incorporates by reference the 03-05 Prioritized List, effective October 1, 2003 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.

(4) The Prioritized List effective October 1, 2003 is in effect and condition/treatment pairs through line 549 are funded.

(5) Pending full CMS approval of the October 1, 2003 Prioritized List, the Prioritized List effective April 1, 2003 through September 30, 2003 remains in effect for the limited purpose of insuring that condition/treatment pairs on lines 1-558 that are not on the October 1, 2003 Prioritized List continue to be funded until CMS approval is obtained. Refer to Table 141-520-1 for specific information. The Prioritized List is generated and maintained by HSC. The Prioritized List effective April 1, 2003 through September 30, 2003, incorporated into this rule by reference, 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.

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

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 3-15-04; 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; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04

Adm. Order No.: OMAP 80-2003(Temp)

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

Certified to be Effective: 10-10-03 thru 3-15-04

Notice Publication Date:

Rules Amended: 410-142-0300

Subject: The Hospice Services Rules govern Office of Medical Assistance Programs payment for services provided to clients. Medicaid hospice rates are calculated based upon the annual hospice rates established by Centers for Medicare and Medicaid Services (CMS). These rates are authorized by section 1814 of the Social Security Act. New Hospice rates, effective 10/1/03, have been received by the Office of Medical Assistance Programs. Rule 410-142-0300 is amended to update the Hospice Rates in compliance with federal regulations.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-142-0300

Billing and Rate Information

(1) Hospice care is defined as a group of services and is therefore paid on a per diem basis dependent upon the level of care being provided. If the

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client is enrolled in a prepaid health plan, the hospice must contact the plan and bill according to their instructions.

(2) When the client has the "OHP Standard or OHP Plus" benefit package but is not enrolled in a prepaid health plan, bill with the appropriate Revenue Codes using the instructions on how to complete the UB-92.

(3) If the client is enrolled in Medicare Part A, do not bill OMAP unless no Medicare certified Hospice is available.

(4) If the client is enrolled in Medicare Part B, enter NC or MC in Form Locator 84.

(5) If the client is enrolled in Medicare Part A and you are not a Medicare-certified hospice, and there is no Medicare-certified hospice available in the area, enter NC or MC in Form Locator 84.

(6) Submit your claim to OMAP on a hard copy UB-92 or electronically:

(a) Send paper UB-92 claims to: Office of Medical Assistance Programs (OMAP);

(b) For information about electronic billing (EMC), contact OMAP. Electronic billing (EMC) information is also available at OMAP's website, www.omap.hr.state.or.us.

(7) When billing for hospice services, the provider must bill the rate based upon the geographic location in which the care is furnished. See Table 142-0300, Hospice Rate Chart – Revised 10/01/03. Rates were calculated per CMS State Agency Letter Number 03-05 dated September 25, 2003.

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

Stat. Auth.: ORS 409

Stats. Implemented: ORS 414.065

Hist.: HR 9-1994, f. & cert. ef. 2-1-94; HR 16-1995, f. & cert. ef. 8-1-95; OMAP 47-1998, f. & cert. ef. 12-1-98; OMAP 40-1999, f. & cert. ef. 10-1-99; OMAP 34-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 55-2001(Temp) f. 10-31-01, cert. ef. 11-1-01 thru 4-15-02; OMAP 65-2001, f. 12-28-01, cert. ef. 1-1-02; OMAP 41-2002(Temp), f. & cert. ef. 10-1-02 thru 3-15-03; OMAP 15-2003, f. & cert. ef. 2-28-03; OMAP 80-2003(Temp), f. & cert. ef. 10-10-03 thru 3-15-04

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

Adm. Order No.: PH 13-2003(Temp)

Filed with Sec. of State: 9-22-2003

Certified to be Effective: 9-22-03 thru 3-20-04

Notice Publication Date:

Rules Adopted: 333-064-0070

Rules Amended: 333-064-0005, 333-064-0010, 333-064-0015, 333-064-0025, 333-064-0030, 333-064-0035, 333-064-0040, 333-064-0060, 333-064-0065

Subject: Retroactively amends Rules (for accrediting environmental testing laboratories) to: 1) Correct agency names and titles to conform, to changes in the Department of Human Services; 2) Change the standards for accreditation from the NELAC 1999 to NELAC 2000 Standards as required to maintain national recognition of the Oregon Environmental Laboratory Accreditation Program by the U.S. Environmental Protection Agency's National Environmental Laboratory Accreditation Program; 3) Increase fees to cover costs of operating the program; 4) Add clarifying language to help avoid misinterpretation.

Rules Coordinator: Jana Fussell—(503) 731-4320

333-064-0005

Purpose

These rules are for the purpose of implementing Oregon Revised Oregon Statutes (ORS) 438.605 to 438.620, 448.280 and the Oregon Drinking Water Quality Act of 1981. ORS 438.610 states that the Oregon Department of Human Services shall by adopting standards in concurrence with the Accrediting Authority, implement an environmental laboratory accreditation program hereafter referred to as the Oregon Environmental Laboratory Accreditation Program (ORELAP). These rules establish requirements for the accreditation of laboratories analyzing environmental samples under the guidance of the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and the Resource, Conservation and Recovery Act (RCRA). The Oregon Department of Human Services shall accept ORELAP accreditation for ORS 448.150(1) that states that water samples from public water systems shall be analyzed in a laboratory approved by the Oregon Department of Human Services.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0010

Scope

(1) These rules apply to environmental laboratories seeking accreditation and performing environmental testing.

(2) Accreditation as described in these rules is required for all environmental laboratories reporting drinking water analysis results to the Oregon Department of Human Services except for Oregon Department of Agriculture Laboratory, Oregon Department of Environmental Quality Laboratory and the Office of Oregon State Public Health Laboratories which must be certified by the United States Environmental Protection Agency for drinking water analysis.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0015

Adoption by Reference

All standards, listings and publications referred to in these rules are, by those references, made a part of these rules as though fully set forth. Copies are available through the Oregon Department of Human Services, Office of the Oregon State Public Health Laboratories.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0025

Definitions

As used in these rules, unless the context indicates otherwise:

(1) "Accrediting Authority" means the official accrediting authority for the Oregon Environmental Laboratory Accreditation Program comprised of the Administrator of the Office of Oregon State Public Health Laboratories or designee, the Laboratory Administrator of the Department of Environmental Quality or designee and the Laboratory Administrator of the Department of Agriculture or designee.

(2) "Clean Air Act (CAA)" means the enabling legislation, **42 U.S.C. 7401 et seq. (1974), Public Law 91-604, 84 Stat. 1676 Public Law 95-95, 91 Stat., 685 and Public Law 95-190, 91 Stat., 1399**, that empowers the EPA to promulgate air quality standards, monitor and enforce them.

(3) "Clean Water Act (CWA)" means the enabling legislation under **33 U.S.C. 1251 et seq., Public Law 92-50086, Stat. 816** that empowers the EPA to set discharge limitations, write discharge permits, monitor and bring enforcement action for non-compliance.

(4) "Environmental laboratory" means a fixed location or mobile facility that analyzes environmental samples in a controlled and scientific manner.

(5) "National Environmental Laboratory Accreditation Conference (NELAC)" means the voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories.

(6) "National Environmental Laboratory Accreditation Program (NELAP)" means the program established and administered by the EPA to oversee the implementation of the NELAC Standards.

(7) "NELAC Standards" means the adopted **June 2000 NELAC Constitution, By-Laws, and Standards (EPA 600/R-00/084)** document describing the elements of laboratory accreditation that was developed and established by the consensus principles of NELAC and meets with the approval requirements of NELAC procedures and policies.

(8) "NELAP approved accrediting authority" means a state or federal department/agency that has been approved by NELAP as being an entity whose accreditation and assessment program meets all of the requirements of the NELAC Standards.

(9) "On-site assessment" means an on-site visit to the environmental laboratory to verify items addressed in the ORELAP application and to evaluate the facility and analytical performance for conformance with the NELAC Standards.

(10) "ORELAP approved assessor" means an assessor whose qualification has been evaluated by ORELAP and found to meet NELAC Standards for laboratory on-site assessors.

(11) "Primary Accreditation" means accreditation by a NELAP approved accrediting authority based on a laboratory's compliance to NELAC Standards after a review of the laboratory's application, Quality

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Manual, PT results and on-site inspection results as described in the NELAC Standards.

(12) "Proficiency testing (PT)" means the analysis of samples obtained from providers that meet the NELAC standards for PT providers. The composition of the sample is unknown to the laboratory performing the analysis, and is used in part to evaluate the ability of the laboratory to produce precise and accurate results.

(13) "Public water system" means a water system as defined in OAR 333-061-0010.

(14) "Quality Manual (QM)" means a document stating the management policies, objectives, principles, organizational structure and authority, responsibilities, accountability, and implementation of a laboratory to ensure the quality of its product and the utility of its product to its users.

(15) "Resource Conservation and Recovery Act (RCRA)" means the enabling legislation 42 U.S.C. section 6901 et seq. (1976) that requires the EPA to protect human health and protecting and monitoring the environment by regulating hazardous waste disposal practices.

(16) "Safe Drinking Water Act (SDWA)" means the SDWA enacted in 1974 and the Safe Drinking Water Amendments of 1986, 42 U.S.C. 300f et seq., Public Law 93-523, that is the enabling legislation that requires the EPA to protect the quality of drinking water in the U.S. by setting maximum allowable contaminant levels, monitoring, and enforcing violations.

(17) "Secondary Accreditation" means the recognition by reciprocity for the fields of testing, methods and analytes for which the laboratory holds current primary accreditation by another NELAP recognized accrediting authority.

(18) "These rules" means the Oregon Administrative Rules encompassed by OAR 333-064-0005 through 333-064-0065.

(19) "Third party assessor" means an ORELAP approved assessor who has a current contract with the Oregon Department of Human Services to perform on-site assessments of laboratories for ORELAP and is not employed by the state agencies comprising ORELAP's accrediting authority.

(20) "United States Environmental Protection Agency (EPA)" means the federal government agency with the responsibility for protecting public health and safeguarding and improving the natural environment (i.e., air, water, and land) upon which human life depends.

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

Stat. Auth.: ORS 184, 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 5-2003, f. 5-15-03, cert. ef. 7-1-03; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0030

Schedule for Requesting Accreditation, Period of Accreditation

(1) Laboratories in Oregon will be considered to be accredited by ORELAP after the laboratory has requested accreditation, been evaluated by ORELAP and has met all criteria in accordance with OAR 333-064-035.

(2) The accreditation period for each laboratory is for one year with subsequent accreditation periods beginning from the first day the laboratory is granted accreditation.

(3) Laboratories must reapply for ORELAP approval annually, with the application to be received by ORELAP 120 calendar days prior to the expiration of the current accreditation period.

(4) ORELAP-accredited laboratories may apply for accreditation of additional parameters at any time during their accreditation period with accreditation for such parameters expiring with the current accreditation period.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.610 & 438.615

Stats. Implemented: ORS 438.605, ORS 438.610 & ORS 438.615

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0035

Approval Requirements

(1) This rule and the NELAC Standards describe the procedure for obtaining and maintaining accreditation.

(2) ORELAP accreditation can be granted, denied, suspended, or revoked in total or in part as described in the NELAC Standards.

(3) In no case shall a laboratory be accredited that does not comply with the NELAC Standards as specified in this rule. This requires laboratories to comply with the standard at the time of rule change.

(4) The elements for accreditation shall include but are not restricted to:

(a) Application for accreditation:

(A) ORELAP will make applications available to all laboratories requesting an application.

(B) The laboratory must request ORELAP accreditation by completing and submitting to ORELAP an acceptable application that includes all elements as required by the NELAC Standards. For primary accreditation this includes a completed application with all required documents. For secondary accreditation this includes a completed application with all of the required documents plus proof of accreditation from a primary accrediting authority.

(b) Laboratory's participation in a biennial on-site assessment(s) as required by the NELAC Standards;

(c) Laboratory's participation in Proficiency Testing (PT) and the obtaining of acceptable PT results according to the NELAC Standards;

(d) A Quality Manual (QM) that includes all elements as set forth in the NELAC Standards;

(e) Laboratory staff members that meet the NELAC Standards for training and experience for their responsibilities within the environmental laboratory;

(f) Creation and retention of all records pertaining to samples and analyses, including chain of custody documents, log books, work sheets, raw data, calculations, quality assurance data, and reports according to NELAC Standards;

(g) Laboratory's full payment of all appropriate fees as described in section 333-064-0060 of this rule.

Stat. Auth.: ORS 448.150(1), 448.131, 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0040

Action Response for Laboratory Drinking Water Analysis Results

(1) The laboratory must notify the water system and, if authorized by the public water system, the Oregon Department of Human Services of all valid sample results that exceed the maximum contaminant levels in OAR 333-061-0030 within one working day.

(2) The laboratory must notify the public water system and, if authorized by the water system, the Oregon Department of Human Services of all unregulated contaminants detected and their concentrations from each specific method used to measure the regulated contaminants.

(3) The laboratory must use report forms that have been approved by the Oregon Department of Human Services for reporting drinking water test results to the Oregon Department of Human Services.

Stat. Auth.: ORS 184, ORS 448.150(1) & ORS 448.131

Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 620

Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0060

Fee Schedule

Fees will be charged to environmental laboratories according to the following schedule.

(1) Payment of a non-refundable application fee must accompany each application.

(a) For laboratories located in Oregon, one of three levels of fees, Tier 1 at \$450, Tier 2 at \$900 and Tier 3 at \$1,600 will be charged. The Tiers will be determined by the total number of points derived from the number of Fields of Testing requested for accreditation listed in section (2)(a) through (c) of this rule.

(A) Each Basic Field of Testing has a multiplier of 1.

(B) Each Moderate Field of Testing has a multiplier of 3.

(C) Each Complex Field of Testing has a multiplier of 5.

(D) The total number of points is determined by first summing the number of Fields of Testing within each category (Basic, Moderate or Complex) and then multiplying the sums by their appropriate multiplier as given in this rule. The sum of these results determines the total number of points for each laboratory. Laboratories with a total of 1-10 points are to be considered Tier 1 laboratories, 11 to 25 points are Tier 2 laboratories and 26 or more points are Tier 3 laboratories.

(b) For each out-of-state laboratory requesting primary or secondary accreditation through Oregon, one of three levels of fees, Tier 1 at \$1,250, Tier 2 at \$2,000 and Tier 3 at \$3,000 will be charged with each Tier determined according to section (1)(a) of this rule.

(c) If a laboratory fails to submit an acceptable application after two attempts, the application will be rejected and the laboratory may reapply and must pay a new nonrefundable application fee as determined in this rule.

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(d) If a new owner acquires the laboratory and wishes the laboratory to remain accredited, the laboratory must submit a new application, pay the application fee and be subject to a new on-site inspection and payment of assessment and on-site fees as described in this rule.

(2) Upon ORELAP's review of a laboratory's application, each laboratory requesting primary accreditation through ORELAP, when ORELAP personnel will be used for the assessment, the laboratory will be charged an assessment fee based on the number Fields of Testing and Programs as follows:

(a) \$90 will be charged for each of the following Basic Fields of Testing requested for accreditation:

- (A) Gravimetric
- (B) Chromofluorogenic (Microbiology)
- (C) Membrane Filter and/or Heterotrophic Plate Count (Microbiology)
- (D) Multiple Tube Fermentation/Most Probable Number (MPN) (Microbiology)
- (E) Microscopy
- (F) Physical
- (G) Probe

(b) \$350 will be charged for each of the following Moderate Fields of Testing requested for accreditation:

- (A) Atomic absorption – flame
- (B) Atomic absorption – furnace
- (C) Automated colorimetric
- (D) Gas chromatography – volatiles
- (E) Gas chromatography – extractables
- (F) High pressure liquid chromatography
- (G) Immunoassay
- (H) Instrumental
- (I) Ion chromatography
- (J) Manual colorimetric
- (K) Radiation
- (L) Toxicity testing

(c) \$500 will be charged for each of the following Complex Fields of Testing requested for accreditation:

- (A) Gas chromatography/mass spectrometry – volatiles
- (B) Gas chromatography/mass spectrometry – extractables
- (C) Inductively coupled plasma
- (D) Inductively coupled plasma/mass spectrometry
- (E) X-ray

(d) An additional cost of \$10 for Basic Fields of Testing, \$40 for Moderate Fields of Testing and \$75 for Complex Fields of Testing will be charged for each additional Program per Field of Testing for which the laboratory has requested approval. The Programs are:

- (A) CAA
- (B) CWA
- (C) SDWA
- (D) RCRA

(e) Assessment fees must be paid during the accreditation period in which the on-site assessment is to be performed but must be paid before the on-site assessment will be scheduled.

(3) All Oregon environmental laboratories requesting primary accreditation through ORELAP where Oregon state assessor(s) will perform the on-site assessment, must pay an on-site trip fee for each on-site assessment.

(a) On-site trip fees are \$350 for Tier 1, \$500 for Tier 2 and \$1,000 for Tier 3 laboratories with the Tiers determined according to section (1)(a) of this rule.

(b) All laboratories must pay the appropriate on-site trip fee prior to scheduling and performing each required on-site assessment and additional assessments as requested by the laboratory for approval for additional Fields of Testing and/or Program.

(c) All laboratories must pay the appropriate on-site trip fee per on-site assessment performed due to just cause according to NELAC Standards.

(4) All environmental laboratories located in Oregon requesting primary accreditation through ORELAP where ORELAP has determined that third party assessors will be used, must pay all ORELAP assessment fees plus all third party assessors costs. ORELAP may require the laboratory to pay the on-site assessment costs directly to the third party assessor according to the schedule of the assessor for all required on-site assessments.

(5) All out-of-state environmental laboratories must pay all on-site assessment costs incurred by ORELAP approved assessors to perform the on-site assessment including but not limited to transportation, per diem and wages during travel. If third party assessors are used, ORELAP may require

the lab to pay the on-site assessment costs directly to the assessor according to the schedule of the assessor for all required inspections.

(6) Accredited laboratories requesting additions to their fields of testing during the accreditation period must pay:

- (a) The difference in cost of the application fee;
- (b) The difference in cost of the assessment fee;
- (c) An on-site trip fee, as described in 3(a) and 5 of this rule, based only on the additional parameters if ORELAP determines that an on-site assessment is required.

Stat. Auth.: ORS 438.605, 438.610, 438.615, 438.620, 448.280(1)(b) & (2)
Stats. Implemented: ORS 438.605, ORS 438.610, ORS 438.615 & ORS 438.620
Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 1-2001, f. & cert. ef. 1-17-01; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0065

Civil Penalties

(1) In addition to any other penalty provided by law, the Oregon Department of Human Services, in collaboration with the Accrediting Authority, may impose a civil penalty not to exceed \$500 per day per violation upon any and all laboratories that willfully or negligently commit any of the following:

- (a) Falsely purport to be ORELAP accredited;
- (b) Improperly use their ORELAP accreditation status in order to mislead;
- (c) Use the NELAC\NELAP logo in catalogs, advertisements, business solicitations, proposals, quotations, laboratory reports and other materials without proper authorization.

(2) The Oregon Department of Human Services reserves the right to pursue other remedies and may take any other disciplinary action against alleged violators.

(3) In establishing the amount of the penalty for each violation, the Oregon Department of Human Services will consider, but not be limited to the following factors:

- (a) The gravity and magnitude of the violation;
- (b) The laboratory's previous record of complying or failing to comply with this rule.

(c) The laboratory's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and,

(d) Such other considerations as the Oregon Department of Human Services may consider appropriate.

(4) The Oregon Department of Human Services in collaboration the Accrediting Authority may deny, suspend or revoke accreditation of any laboratory that fails to pay on demand a civil penalty that has become due and payable, provided that it first gives the laboratory an opportunity for a hearing as outlined in ORS 183.

Stat. Auth.: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620
Stats. Implemented: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620
Hist.: OHD 7-1999, f. & cert. ef. 10-26-99; OHD 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

333-064-0070

Effective Date

The effective date for rules 333-064-0005, 333-064-0010, 333-064-0015, 333-064-0025, 333-064-0030, 333-064-0035, 333-064-0040, 333-064-60 and 333-064-0065 shall be October 10, 2002.

Stat. Auth.: ORS 448.280(1)(b) & (2), 438.605, 438.610, 438.615 & 438.620
Stats. Implemented: ORS 448.150(1), 448.131, 448.280(1)(b) & (2)
Hist.: PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04

Adm. Order No.: PH 14-2003(Temp)

Filed with Sec. of State: 9-25-2003

Certified to be Effective: 10-1-03 thru 3-29-04

Notice Publication Date:

Rules Adopted: 333-005-0000, 333-005-0010, 333-005-0020, 333-005-0030, 333-005-0040, 333-005-0050, 333-005-0060

Subject: Implements Physician Visa Waiver Program. Authorizes Department of Human Services to collect fees to cover costs of program administration.

Rules Coordinator: Jana Fussell—(503) 731-4000

333-005-0000

Purpose of the Physician Visa Waiver Program

The purpose of the Physician Visa Waiver program is to make recommendations to the United States Department of State for waivers of the foreign country residency requirement on behalf of physicians holding

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visas who seek employment in federally designated area having a shortage of physicians. These rules are promulgated pursuant to 2003 Or Laws ch. 608 in order to enable Oregon to make requests for waiver of the foreign country residency requirement as authorized under 8 U.S.C. secs. 1182(e) and 1184(l).

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0010

Definitions

For the purposes of this division 333-005, the following definitions apply:

(1) "Application" means the Physician Visa Waiver Program application form and accompanying documentation;

(2) "Bureau of Citizenship and Immigration Services" means the agency that replaced the Immigration and Naturalization Service, effective March 1, 2003;

(3) "Department" means the Oregon Department of Human Services;

(4) "Department of State" means the federal agency that reviews J-1 applications;

(6) "Health Care Facility" means the clinic or hospital that employs the J-1 physician;

(7) "Health Services and Resources Administration" (HRSA) means the branch of the Department of Health and Human Services that designates federal shortage areas;

(8) "Health Care Shortage Area" means a geographic area or site approved by HRSA. Categories include Health Professional Shortage area (HPSA), Medically Underserved Area (MUA), and Medically Underserved Population (MUP);

(9) "J-1 Application" refers to the application form and supporting material submitted jointly by the health care facility and the J-1 physician to the Department;

(10) "J-1 Physician" means the doctor who is requesting a waiver of the two-year foreign country residency requirement in order to practice in a federally designated shortage area;

(10) "Low Income" means a patient whose income does not exceed 200% of the current Federal Poverty Guidelines;

(11) "Mental Health Facility" means an agency that provides mental health services in an outpatient, residential, or hospital setting;

(11) "Primary Care Physician" means a physician licensed in Oregon to practice family medicine, general internal medicine, obstetrics and gynecology, pediatrics, or psychiatry.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0020

Health Care Facility Participation Requirements

(1) In order to qualify for the program the health care facility must:

(a) Identify the nature of the business entity seeking to employ the physician (domestic or foreign professional corporation, domestic or foreign private corporation, LLC, partnership, etc.), and provide a certificate of existence or proof of authorization to do business in Oregon;

(b) Have provided care for a minimum of six months in Oregon, or supply evidence of stability such as HRSA funding, prior to submitting an application;

(c) Currently serve Medicare, Medicaid, low-income, and uninsured patients, as well as the population of the local HRSA designation. A minimum of 20% of the total current patient visits must be Medicaid and/or other low-income patients, excluding Medicare;

(d) Post a sliding fee schedule in the primary language(s) of the population being served;

(e) Document attempts to actively recruit an American doctor for at least six months prior to submission of the application;

(f) Execute an employment contract with the physician that includes the following provisions:

(A) Duration of at least three years;

(B) Wages and working conditions comparable to those for a graduate from an American medical school;

(C) A signed U.S. Department of Labor Prevailing Wage Form (ETA-9035);

(D) May not include a non-compete clause or restrictive covenant that prevents or discourages the physician from continuing to practice in any designated area after the term of the contract expires;

(E) Specifies the geographic shortage area within Oregon in which the physician will practice;

(F) The physician will treat all patients regardless of their ability to pay;

(G) The physician will provide patient care on a full-time basis, i.e., a minimum of 40 hours per week;

(2) If a health care facility is located in a Medically Underserved Area (MUA) or Medically Underserved Population (MUP) that is not a Health Professional Shortage Area (HPSA), then the facility should provide documentation substantiating the area's need for a physician.

(3) The health care facility shall submit to the Department a fee of \$2,000 and two original copies of the application packet for each waiver requested.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0030

Physician Participation Requirements

(1) In order to qualify for consideration by this program the physician must:

(a) Obtain a Department of State case number prior to submitting an application to the Department;

(b) Submit a completed application that:

(A) Documents having, or having applied for, an active Oregon medical license;

(B) Documents board certification or board eligibility;

(C) Includes either a "No Objection" letter from the home country, or a statement that the physician is not contractually obligated to return to the home country.

(D) Includes a signed and dated statement certifying that the physician does not have any other pending J-1 waiver requests;

(E) Provides at least one recommendation from the physician's primary care residency program or fellowship/subspecialty training;

(F) Includes evidence of graduation from the residency program or subspecialty training program. Under some circumstances, a letter from the program director projecting graduation by the end of the academic year may be acceptable;

(G) Documents an agreement to begin employment with the health care facility within 90 days from the latest of the granting of the waiver, receiving an Oregon medical license, or graduation from the residency or fellowship program.

(H) Includes a copy of the medical degree or diploma;

(I) Includes legible copies of all IAP-66 Forms;

(J) Documents satisfactory completion of all examinations that the Bureau of Citizenship and Immigration requires;

(K) Includes a curriculum vita that documents the physician's date of birth, city and country of birth.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0040

Application Review Process

(1) The Department will review completed health care facility applications that meet all requirements of 333-005-0020. Potential physician participants must meet all 333-005-0030 requirements.

(2) The following factors will be considered in determining whether to recommend a request for waiver of the foreign country residency requirement:

(a) The type of medicine to be practiced. Eighty percent of the slots allotted for each federal fiscal year must be primary care physicians as defined in OAR 333-005-0010. Applications from community health centers and mental health facilities will receive priority.

(b) Geographic distribution of physicians. To the extent possible, the Department will attempt equitable distribution of waiver requests for eligible areas of the state. The number of physicians already working under waivers or recommended for waivers in a particular geographic area will be taking into consideration.

(c) Facility patient profile. The health care facility's percentage of patient visits which are covered by the state Medicaid program or are low income, uninsured.

(3) Incomplete applications will be returned, including application fees. The Department will process completed resubmitted applications (including fees) as of the new date of receipt.

(4) The Department will review each completed application and notify the applicant of the results within 15 business days.

(5) The Department will forward recommended requests for waiver to the Department of State. Their review normally takes four to six weeks. The

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Department of State will forward waiver requests recommended for approval to the Bureau of Citizenship and Immigration Services for final approval.

(6) The Department reserves the right to re-allocate positions based on a review of current access needs in the state. The Department additionally reserves the right to recommend or decline to recommend a waiver request.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0050

Monitoring and Follow-up Requirements

In order to maintain participation in the Physician Visa Waiver Program the health care facility must:

(1) Notify the Department in writing as soon as the physician starts work;

(2) Submit semi-annual reports signed by the physician and the Chief Executive Officer of the health care facility verifying the physician's employment. The first report is due six months after employment begins, and every six months thereafter, until the term of the contract is complete. Failure to submit timely, accurate reports will result in a report of non-compliance to the Bureau of Citizenship and Immigration Services.

(3) Allow Department auditors access to health care facility and physician records.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

333-005-0060

Transfer of J-1 Waiver Physician Obligation

(1) A physician who is granted a visa waiver and who encounters a practice failure due to extenuating circumstances may, with Department approval, continue the service obligation at another approved health care facility. A written transfer request must be submitted to the Department documenting the need for the transfer.

(2) The request must include the reason for transfer, proposed new employer, health care facility director's name, practice name, address, telephone number and proposed date of transfer.

(3) The original employer must provide a letter releasing the physician from the employment contract and providing an explanation for the termination.

(4) The new employer must:

(a) Provide a letter of intent to employ the physician;

(b) Provide a copy of the new employment contract;

(c) Meet health care facility participation requirements as set forth in these rules;

(d) Work with the physician to jointly submit semi-annual Verification of Employment forms as required by the Department.

Stat. Auth.: 2003 OL Ch. 608
Stats. Implemented: 2003 OL Ch. 608
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04

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

Adm. Order No.: SSP 23-2003

Filed with Sec. of State: 10-1-2003

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Rules Adopted: 461-190-0197

Rules Amended: 461-110-0370, 461-110-0400, 461-120-0125, 461-120-0235, 461-125-0370, 461-135-0405, 461-135-0570, 461-135-0780, 461-135-1120, 461-140-0296, 461-145-0055, 461-145-0120, 461-145-0130, 461-145-0330, 461-145-0600, 461-145-0830, 461-145-0920, 461-145-0930, 461-155-0150, 461-155-0190, 461-160-0120, 461-160-0160, 461-160-0410, 461-160-0420, 461-160-0430, 461-160-0620, 461-170-0010, 461-170-0020, 461-175-0200, 461-175-0305, 461-175-0340, 461-180-0090, 461-180-0161, 461-180-0521, 461-180-0541

Subject: Rules 461-110-0370 and 461-155-0190 are being amended to reflect the annual increase in the income and payment standards

for the Food Stamp program as published by the Food and Nutrition Service.

Rule 461-110-0400 is amended to clarify that, in determining eligibility for the Oregon Health Plan (OHP), filing groups are formed from individuals in the household group.

Rules 461-120-0125 and 461-145-0830 are being amended to allow children under age 18 with a qualified noncitizen status to meet the alien status requirement for the Food Stamp program. They are also being amended to eliminate the deeming requirement for noncitizen children.

Rule 461-120-0125 is also being amended because Social Security Administration clarified that noncitizens who were in the United States on or after August 22, 1996 would not be eligible for SSI if they do not meet the disability criteria. Since OSIP and OSIPM are based on SSI eligibility, qualified noncitizens who have been living in the U.S. with a qualified status may be eligible for other medical programs but not OSIP or OSIPM.

Rule 461-120-0235 is being amended to disqualify, from food stamps, any client with an invalid social security number or a number that Social Security Administration says is incorrect.

Rule 461-125-0370 is being amended for clarification purposes with respect to disability determinations made by the Social Security Administration (SSA). As specified in the 42 CFR 435.541(c)(4), disability determinations made by SSA are binding on the Department unless certain conditions exist. We are adding a condition that was previously left out of the rule. That is, an SSA determination is binding unless the decision by SSA to deny was for a reason other than the client's medical condition. Also, we are clarifying the policy on favorable disability determinations made by the Department. An individual remains eligible for OSIPM, even if SSA later denies the disability claim, provided the client maintains an active administrative appeal with SSA.

Rule 461-135-0405 is being amended to clarify that if a child's care is covered by a child care contract between DHS and Head Start, the child is ineligible for DHS payments for child care provided outside the contract.

Rule 461-135-0570 is being amended to align this rule with the federal regulations by including a business or trade school in the list of post secondary schools to the list of higher education options for food stamps. This rule also includes wording clarifying participation in the JOBS program.

Rule 461-135-0780 is being amended to clarify and simplify eligibility of the Pickle Amendment (P.L. 94-566, 42 CFR 435.135 and Section 1935(a)(5)(E) of the Social Security Act). This provision permits continuation of Medicaid coverage if the individual is currently receiving Social Security, lost their SSI benefits for any reason and receives income that would qualify them for SSI after deducting all cost-of-living adjustments received since the last month in which they were eligible for both Social Security and SSI. This rule now offers a simplified mathematical formula to determine this calculation and provides more understandable language to determine who qualifies using this rule.

Rule 461-135-1120 is being amended to change the date an Oregon Health Plan (OHP) premium payment must be received to be considered paid on time. The date will change from the 25th of the month following the month in which the premium is due to the 20th of the month following the month in which the premium is due.

Rule 461-140-0296 is being amended to conform with policy provided in the State Medicaid Manual Section 3258.5 Subparts H. and I. as published by the Centers for Medicare and Medicaid Services. These provisions detail how to treat disqualifying resource transfers if the periods of disqualification overlap or if separate transfers have periods of disqualification that would not overlap. Federal policy requires that the disqualification period be calculated by determining if an overlap of time can be measured by looking at each uncompensated transfer made during the thirty-six month look-back period. If transfers are made in such a way that the transfer penalties would overlap, the period of time of ineligibility would begin the first

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of the month in which the transfer was made and would extend through a period of time by adding all the transfers together for one total period. If the transfer period would not overlap, each transfer penalty period would be measured separately and not added together. As an example, if someone transfers \$10,000 in January and \$10,000 in February and the divisor used to measure how many months the individual is disqualified equals \$4,300, the individual would have to serve a penalty period of four months beginning in January. This is a result of the penalty for the January transfer extending into February and thereby overlapping. If this same individual transfers \$10,000 in January and \$10,000 in April, the penalty periods are January and February for the first transfer and April and May for the second transfer.

Rules 461-145-0055, 461-145-0120, 461-145-0600, 461-145-0920, 461-145-0930, 461-160-0160 and 461-190-0161 are being amended and rule 461-190-0197 is being adopted to support the Microenterprise Development Act passed by the Oregon Legislature during the 2001 legislative session. In addition, rule 461-190-0161 is being amended to update medical program acronyms used in the Work Supplementation definition.

Rule 461-145-0130 is being amended to exclude the earned income of a child too young to attend elementary school from the food stamp benefit computation.

Rule 461-145-0330 is being amended to allow for oral loans in the OSIP, OSIPM and QMB programs.

Rule 461-155-0150 is being amended to clarify that the monthly limit for child care payments applies to each child, not to each provider.

Rule 461-160-0120 is being amended to clarify that, in determining eligibility for Medical Assistance for Families (MAF) involving a father of an unborn or an ineligible non-citizen, a \$90 earned deduction is also included in income calculation. When this rule was amended effective July 1, 2002, the reference to the earned income deduction was inadvertently omitted.

Rule 461-160-0410 is being amended to incorporate a policy option available for computing income and deductions for qualified noncitizens in the food stamp benefit computations.

Rule 461-160-0420 is being amended to reflect the annual increase in the Full Utility Allowance (FUA) and Limited Utility Allowance (LUA) for food stamp households. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan.

Rule 461-160-0430 is being amended to reflect the annual increase in the standard deduction and the shelter deduction standard for the Food Stamp program as published by the Food and Nutrition Service.

Rule 461-160-0620 is being amended to reflect a calculation for community spousal support which is already being used within the Department. This rule is also being amended to conform with Section 1924(d)(3)(B) of the Social Security Act which requires indexing the community spouse income allowance to a percentage of the federal poverty level every July. The state is required to provide an income allowance for a spouse who has a husband or wife in a nursing facility or covered under a home and community based waiver outlined in Section 1915 (c) of the Social Security Act. The amount indexed is 150% of the federal poverty level for a household of two. This rule is also being amended to comply with 42 CFR 435.726(c)(3)(iii) which requires an income allowance to individuals who have eligible dependents in the same living arrangements listed above without a spouse. The allowance is based on the higher amount of the state's medically needy income standard or the state's AFDC (TANF) income standard. The medically needy program ceased to offer coverage under that program on January 31,

2003 and therefore the higher of the two standards defaults to AFDC (TANF).

Rule 461-170-0010 is being amended to incorporate a policy option available for determining when a change in employment status or a new rate of pay is received.

Rule 461-170-0020 is being amended to incorporate a change in federal regulations that requires clients to report a change in the amount of unearned income greater than \$50 a month. This rule is also being amended to require TANF and MAA clients to report when a member of the Filing Group becomes pregnant.

Rule 461-175-0200 is being amended to clarify that, for OHP medical assistance programs, a timely continuing benefit decision notice is not always used when benefits are reduced or closed.

Rule 461-175-0305 is being amended to clarify that, for OHP medical assistance programs, a basic decision notice is used when a child is removed from the benefit group as a result of a court order or a voluntary placement in foster care by the child's caretaker relative.

Rule 461-175-0340 is being amended to allow clients to voluntarily reduce benefits.

Rule 461-180-0090 is being amended to clarify that the effective date for starting medical benefits under the Oregon Health Plan programs is dependent on the client providing information to determine eligibility within the application time frames.

Rule 461-195-0521 is being amended to delete the provision allowing for a credit against the overpayment in the amount that the client could use unreported resources to establish a resource reserve.

Rule 461-195-0541 is being amended to make an ineligible student who is a member of the household group responsible for repayment of food stamp overpayments caused by that person's failure to correctly report the household situation.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-110-0370

Filing Group; FS

For the Food Stamp program, the filing group is composed as follows:

(1) From the household group (see OAR 461-110-0210), the following people are excluded:

(a) Residents of commercial boarding houses.

(b) Ineligible students, as defined in OAR 461-135-0570.

(c) The following people who are paying to have meals provided, if they apply for benefits for themselves alone, or if the meal provider chooses not to apply for benefits for them:

(A) A member of the household group who pays a reasonable amount for meals (lodger).

(B) Persons in foster care.

(2) A member of the household group in foster care is excludable from the filing group—at the option of the foster caregiver—even if provided otherwise in this rule.

(3) A parent whose child is in the same household may be in a different filing group only if the child has reached the age of 22 years.

(4) A child under the age of 18 years must be in the same filing group with an adult in the child's household who exercises parental control over the child. For the purposes of this provision, parental control means the adult is responsible for the care, control and supervision of the child or the child is financially dependent on the adult.

(5) Siblings in the same household group without their parent may be in separate filing groups if they purchase and prepare their food separately. If an adult sibling has parental control over a minor sibling, they must be in the same filing group.

(6) Spouses who are in the same household group must be in the same filing group.

(7) Members of a household group who pay other members of the household group for meals, but are not paying a reasonable amount for those meals, are in the same filing group with the other people in the household group. A reasonable amount is:

(a) An amount that equals or exceeds the Thrifty Food Plan for the person and anyone in that person's filing group, if more than two meals a day are provided; or

(b) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the person and anyone in that person's filing group, if two or fewer meals a day are provided.

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(8) Members of a household group who purchase and prepare food together must be in the same filing group, except in the following situations:

(a) A live-in attendant and the attendant's minor children may choose not to be in the filing group with the people for whom they are providing services, even if they purchase and prepare food with those people, unless they are required by sections (3) through (6) of this rule to be in the same filing group.

(b) An elderly person and the person's spouse may form their own filing group, separate from anyone else with whom they purchase and prepare meals, if:

(A) The elderly person is unable to purchase and prepare food because of a disability; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(9) For residents of an alcohol or drug treatment and rehabilitation program:

(a) A parent living with his or her children, under the age of 22 years, comprise one filing group.

(b) For all other residents, each applicant is a separate filing group.

(10) For residents of an RCF for which an employee of the facility is the authorized representative, each applicant is a separate filing group. If an employee of the facility is not the authorized representative, sections (3) through (6) of this rule apply.

(11) For residents of a homeless or domestic violence shelter, a filing group consists of:

(a) Residents who choose to apply together; or

(b) Residents who form filing groups according to the criteria in sections (3) through (6) of this rule.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; 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 20-1991, f. & cert. ef. 10-1-91; 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 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-110-0400

Filing Group; OHP

In the OHP program, filing groups are formed from the household group as follows:

(1) A person constitutes a filing group if not required by this rule to be in a filing group with another person.

(2) The following people must be in the same filing group, even if they are not applicants or do not meet all nonfinancial eligibility requirements:

(a) People married to each other and each child of either spouse.

(b) With respect to a child or unborn, the parents of the child or unborn and the children of each parent.

(c) Siblings under the age of 19.

(3) A child whose caretaker relative is not the child's parent may constitute a separate filing group or may be in a group with the caretaker relative, at the option of the caretaker relative.

Stat. Auth.: ORS 411.060, ORS 411.070, ORS 414.042

Stats. Implemented: ORS 411.060, ORS 411.070, ORS 414.042

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-120-0125

Alien Status; Not REF or REF M

(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.

(c) Victims of a severe form of trafficking under the Trafficking Victims Protection Act of 2000.

(4) In the BCCM, GA, GAM, MAA, MAF, OHP, 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 OSIPM programs, a qualified non-citizen meets the alien status requirement by meeting any of the following criteria:

(a) By being a qualified non-citizen of a status not listed in section (4)(c) of this rule and meeting the disability-related eligibility criteria for SSI.

(b) By meeting eligibility criteria for SSI and by applying for SSI within seven years following the date he or she was granted an alien status listed in section (4)(c) of this rule.

(c) If it has been more than seven years since the client was granted an alien status listed in section (4)(c) of this rule, by meeting:

(A) The disability-related eligibility criteria for SSI; or

(B) One of the alien status requirements listed in section (6) of this rule.

(d) By having been a recipient of SSI benefits on August 22, 1996 or by receiving SSI benefits based on an application filed before January 1, 1979.

(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).

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(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, OSIP or OSIPM program, a qualified non-citizen who meets the requirement in section (9) of this rule.

(7) Except as provided in sections (2), (4), (5), 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, 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 qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) 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).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (c) of this section.

(f) 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, OSIP, and OSIPM programs, 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.

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; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-120-0235

SSN Discrepancy; FS

If the Social Security Administration notifies the Department that a client's SSN is not valid, the client must clear up the discrepancy. If the client fails to provide information or take other action necessary to verify the number, the client is ineligible for food stamps.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 23-2003, f. & cert. ef. 10-1-03

461-125-0370

Disability as the Basis of Need; OSIP and OSIPM

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), a client meets the eligibility requirement to be disabled if:

(a) The client is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the client remains eligible for SSDI or SSI.

(b) The client was 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) The Department has determined the client meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. § 416.905.

(d) The Social Security Administration (SSA) has determined the client meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. § 416.905.

(2) If the Department finds the client eligible for OSIPM within 90 days following the date of request, the client remains eligible for OSIPM:

(a) Until SSA denies the disability claim, if the denial is effective within the first 90 days following the date of request; or

(b) For as long as the client maintains an active administrative appeal of a denial by SSA, if SSA denies the disability claim more than 90 days following the date of request.

(3) A disability determination made by SSA is 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;

(b) The client alleges that the 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; or

(c) SSA made the determination for a reason other than the client's medical condition.

(4) 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 SSI or SSDI under 20 C.F.R. 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; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-135-0405

ERDC; Children in the Head Start Program

(1) The following provisions apply when an ERDC client's child receives child care through a Head Start agency:

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care

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payments for care not provided under the contract between the Head Start agency and the Department.

(2) The following provisions apply when an ERDC client's child receives child care under a contract between a Head Start agency and the Department:

(a) Once the Department makes a child care payment for the child under the contract, the child is presumed to meet the ERDC eligibility requirements until the next June 30.

(b) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(c) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-135-0570

Eligible and Ineligible Students; FS

(1) For the purposes of this rule, higher education includes the following:

(a) Public and private universities and colleges and community colleges. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.

(b) Post-secondary vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the institution or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(2) A person 18 years of age and older, but under the age of 50 years, who is not disabled and who is enrolled at least half time in higher education is ineligible to receive FS benefits, unless any of the following is true:

(a) The student is:

(A) A paid employee working a minimum of 20 hours per week; or

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student is approved for state or federally funded work-study and expects to actually perform work in a work-study job in the current term or semester. Eligible student status:

(A) Begins with the month in which school begins or with the month that work study is approved, whichever is later.

(B) Continues for the duration of the term or semester, unless the student refuses a work-study job.

(C) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

(c) The student is responsible for the care of a child in the filing group, and the child is:

(A) Under six years of age; or

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to attend class and comply with OFSET requirements.

(d) The student is enrolled full time in higher education and is a single parent or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.

(e) The student is in a TANF benefit group.

(f) The student is physically or mentally unfit for employment.

(g) The student is in job training classes through the Workforce Investment Act of 1998 (Pub. L. 105-220).

(h) The student is in a program serving displaced workers (see Section 236 of the Trade Act of 1974, 19 U.S.C. 2296).

(i) The student is enrolled as a result of participation in the higher education component of the JOBS program.

(j) The student is enrolled as a result of employer-sponsored on-the-job training.

(3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates,

drops out (as verified by their disenrolling), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 3-2002(Temp), f. 2-26-02, cert. ef. 3-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-135-0780

Eligibility for Pickle Amendment Clients; OSIPM

(1) A client is eligible for OSIPM under the so-called Pickle amendment (Pub. L. No. 94-566, § 503, title V, 90 Stat. 2685 (1976)), if he or she meets all other eligibility requirements, but is over income because of SSB cost-of-living increases after July 1977, and:

(a) Is receiving SSB;

(b) Was eligible for and receiving SSI or state supplements but became ineligible for those payments after April 1977; and

(c) Would be eligible for SSI or state supplement if the SSB COLA increases paid under section 215(i) of the Social Security Act, after the last month the client was both eligible for and received SSI or a supplement and was entitled to SSB, were deducted from current SSB benefits.

(2) The SSB amount received by the client when he or she became ineligible for SSI or OSIP is used as the client's countable income. If the amount cannot be determined, it is calculated in accordance with sections (3) and (4) of this rule.

(3) To determine the SSB amount the client received when last eligible for SSI or the state supplement, the cost-of-living increases for SSB are deducted from the current SSB level. The amount of the increase is determined by multiplying the current SSB amount by the number that corresponds to the month the client last received SSI (see table in section (4) of this rule). The resulting total is added to any other countable income.

(4) The following guide contains the calculations used to determine the SSB for prior years: [Table not printed See ED. NOTE.]

[ED. NOTE: Calculations 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 30, 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 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 14-2003(Temp), f. & cert. ef. 6-18-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-135-1120

Premium Requirement; OHP-OPU

In the OHP-OPU program, a monthly premium must be paid when the benefit group includes at least one non-exempt (HPN) client (see OAR 461-135-1100).

(1) The following HPNs are exempt from the premium requirement:

(a) American Indians and Alaska Natives.

(b) Clients who are eligible for the CAWEM program (see OAR 461-135-1070).

(2) The amount of the premium is determined in accordance with OAR 461-155-0235.

(3) All non-exempt clients in the benefit group are responsible for payment of premiums.

(4) Once the amount of the premium is established, the amount will not change during the certification period unless:

(a) An HPN client becomes pregnant.

(b) A pregnant client becomes an HPN client following the end of her assumed eligibility period provided for in OAR 461-135-1100.

(c) An HPN client becomes eligible for another program (for example, GA, OSIP or TANF).

(d) An HPN client leaves the filing group.

(e) OHP cases are combined during their certification periods.

(f) An HPN client's exemption status changes.

(g) An HPN client is no longer a member of the benefit group.

(5) For premiums billed on or after July 1, 2003, a premium is considered paid on time when payment is received by the Oregon Health Plan billing office on or before the 20th day of the month after the benefit month for which the premium was billed. For premiums billed prior to July 1, 2003, a premium is considered paid on time when payment is received by the Oregon Health Plan billing office on or before the 25th day of the month

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after the benefit month for which the premium was billed. The day the payment arrives in the office's post office box is the date it is received.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; Administrative correction 2-23-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 19-2003(Temp), f. & cert. ef. 7-1-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-140-0296

Length of Disqualification Due to a Resource Transfer; GA, GAM, OSIP, OSIPM or QMB; On or After October 1, 1998

(1) A GA, GAM, OSIP, OSIPM or QMB financial group containing a member disqualified due to the transfer of a resource is disqualified from receiving benefits if the group filed an application for benefits on or after October 1, 1998.

(2) The length of a disqualification period resulting from a transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) divided by the factor listed below in this section, rounded down to the next whole number. The first month of a disqualification period is the month the resource was transferred except as provided in section (3) of this rule. The factor used in the calculation is:

(a) For an application filed on or after October 1, 1998 and prior to October 1, 2000 – \$3,320.

(b) For an application filed on or after October 1, 2000 and prior to October 1, 2002 – \$3,750.

(c) For an application filed on or after October 1, 2002 – \$4,300.

(3) If disqualification periods calculated in accordance with section (2) of this rule overlap, they are applied sequentially so that no two penalty periods overlap. For instance, suppose a transfer in January results in a disqualification of three months, and a transfer in February results in a disqualification of two months. The penalty period is applied so that it starts in January and runs through May for a total of five months.

(4) If a resource is owned by more than one person, by joint tenancy, tenancy in common or similar arrangement, the share of resource owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the resource.

(5) If an annuity is purchased that pays benefits beyond the life expectancy of the client, as determined by the annuity, a disqualification period will be assessed for the value of the annuity beyond the life expectancy of the annuitant.

(6) A single transfer of a resource may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0055

Capital Assets

(1) Capital assets are property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. Capital assets generally have a useful life of over one year and a combined value of \$100 or more.

(2) In all programs except FS, MAA, and TANF, the equity value of a capital asset is treated according to the rules for the asset.

(3) In the FS program, capital assets used in a business are excluded as follows:

(a) Non-farm assets are excluded as long as the financial group is actively engaged in self-employment activities.

(b) Farm assets are excluded for one year from the date the person quit self-employment as a farmer.

(4) In the MAA and TANF programs:

(a) For a self-employed client participating in the microenterprise component of the JOBS program, the value of capital assets is excluded.

(b) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0120

Earned Income; Defined

Earned income is income received in exchange for a person's physical or mental labor. Earned income includes:

(1) Compensation for services performed. This includes wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of one's blood or plasma.

(2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.

(3) In-kind income, when the client is an employee of the person providing the in-kind income and the income is in exchange for work performed by the client.

(4) Income from self-employment, including income from a microenterprise.

(5) Flexible (cafeteria plan) benefits that the employee takes as cash.

(6) Income from work-study.

(7) Income from profit sharing that the client receives monthly or periodically.

(8) Additionally for MAA, MAF and TANF, income from employer-funded temporary disability insurance and temporary worker's compensation paid to a client who is still considered to be employed while recuperating from a temporary illness or injury.

(9) In the OHP program, an expenditure by a business entity that substantially benefits a *principal*. Principal is defined in OAR 461-140-0040.

Stat. Auth.: ORS 409.050, 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 28-1992, f. & cert. ef. 10-1-92; 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 11-1999, f. & cert. ef. 10-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

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 who is under the parental control of another member of the household and is:

(A) Attending elementary or high school;

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- (B) Attending GED classes recognized by the local school district;
 - (C) Completing home-school elementary or high school classes recognized by the local school district; or
 - (D) Too young to attend elementary school.
- (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; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0330

Loans and Repayment of Loans

- (1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.
- (2) Except in the OSIP, OSIPM, and QMB programs, this rule applies only if there is a written loan agreement that stipulates when the loan is due and is signed and dated before the borrower receives the proceeds of the loan.
- (3) In the OSIP, OSIPM, and QMB programs, this rule applies whether the loan agreement is written or oral.
- (4) Interest earned on a loan is unearned income.
- (5) For all programs except FS, GA and GAM, the following are excluded:
 - (a) Loans obtained by the financial group; and
 - (b) Payments made to the financial group on the principal portion of a loan the group has made to someone else.
 - (6) For FS, cash on-hand from a loan is a resource.
 - (7) For GA and GAM, the following are considered unearned income:
 - (a) Loans obtained by the financial group.
 - (b) Payments made to the financial group on a loan the group has made to someone else.
 - (8) For OSIP, OSIPM and QMB, the proceeds of a home equity loan or reverse annuity mortgage are *excluded* if received in regular, monthly payments. The proceeds not excluded under this rule are treated as *lump sum* income under OAR 461-140-0120.

- (9) Educational loans are treated according to OAR 461-145-0150.

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 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0600

Work-Related Equipment and Inventory

- (1) Work-related equipment is property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.
- (2) Work-related equipment is treated as follows:
 - (a) In the MAF, REF, and SAC (except ADCM-EA) programs, the equity value of the equipment is treated as a resource.
 - (b) In the MAA and TANF programs:
 - (A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.
 - (B) For all other clients, the equity value of the equipment is treated as a resource.
 - (c) In the ADCM-EA, EA, ERDC, FS, and OHP programs, the equity value of work-related equipment is excluded.

- (d) In the GA, OSIP, OSIPM, and QMB programs, the value of equipment needed by a disabled or blind client to complete a plan for self-support is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource.

- (3) Inventory is goods that are in stock and available for sale to prospective customers.

- (4) Inventory is treated as follows:

- (a) In the MAF, REF, and SAC programs, the wholesale value of inventory remaining at the end of the month, minus any encumbrances, is counted as a resource.

- (b) In the MAA and TANF programs:

- (A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of a quarter, less encumbrances, is counted as a resource.

- (B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

- (c) In the ADCM-EA, EA, ERDC, FS, and OHP programs, inventory is excluded.

- (d) In the GA, OSIP, OSIPM, and QMB programs, the value of inventory needed by a disabled or blind client to complete a plan for self-support is excluded, as long as the plan is in effect. For all other inventory, the equity value of the inventory is counted as a resource.

Stat. Auth.: ORS 411.060 & ORS 418.100

Stats. Implemented: ORS 411.060, ORS 418.100 & ORS 411.117

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03

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;
- (8) The sponsored non-citizen can be credited with 40 qualifying quarters of work; or
- (9) The sponsored non-citizen is under 18 years of age.

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; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0920

Self-Employment; Costs that Are Excluded to Determine Countable Income

This rule explains how to determine which costs are excluded from gross self-employment income.

- (1) Unless prohibited by section (2) of this rule, and subject to the provisions of sections (3) and (4) of this rule and to OAR 461-145-0930, the necessary, verifiable costs of producing self-employment income are excluded from gross income, including but not limited to:

- (a) Labor (wages paid to an employee or work contracted out);

- (b) Materials used to make a product;

- (c) In the Food Stamp program – principal and interest paid to purchase income-producing property, such as real property, equipment or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets;

- (d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property;

- (e) Service, repair, and rental of business equipment (including motor vehicles) and property that is owned, leased or rented;

- (f) Advertisement and business supplies;

- (g) Licenses, permits, legal, or professional fees;

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(h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense;

(i) Charges for telephone service that are a necessary cost for self-employment;

(j) Meals and snacks provided by family day care providers receiving USDA meal reimbursements for children in their care (including their own). Use The actual cost of the meals if the provider can document the cost. If they cannot document the actual cost, use the following figures:

(A) Breakfast – \$.83;

(B) Lunch – \$1.51;

(C) Dinner – \$1.51;

(D) Snacks – \$.45.

(2) The following costs are not excluded:

(a) Business losses from previous months;

(b) Except in the Food Stamp program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods;

(c) Federal, state and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses (such as transportation, personal business, and entertainment expenses);

(d) Depreciation. Depreciation is a prorated lessening of value assigned to a capital asset based on its useful life expectancy and initial cost;

(e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip;

(f) Interest or fees on personal credit cards;

(g) Personal telephone charges;

(h) Additionally for MAF and OHP, the costs of real property used as both a home and a business, unless the real property (including utilities) used for business is separate from the dwelling in which the financial group lives; and

(i) Shelter or utility costs associated with the client's home, except as authorized by section (3) of this rule.

(3) The exclusions for items used for both business and personal purposes, such as automobiles and real property (including utilities), are limited by the following rules:

(a) For MAF and OHP, the costs of real property (including utilities) are prorated if a separate office or shop is located on the property used as a home. No expense is allowed if the office or shop is part of the dwelling in which the client lives. For other items, the portion of the expense that is for business use only is excluded;

(b) For ERDC, GA, GAM, OSIP, OSIPM and QMB, the portion of the expense that is for business use only is excluded;

(c) For FS, costs are excluded for a separate office or shop located on the property used as a home, unless the office or shop is part of the dwelling in which the client lives. Costs for other items used for both business and personal use are excluded.

(4) If no member of the financial group has been self-employed for a sufficiently long period to ascertain the costs of self-employment, they may be estimated.

(5) For a client participating in the microenterprise component of the JOBS program, costs are excluded according to general accounting principals, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department, and this rule.

Stat. Auth.: ORS 411.060, ORS 411.816 & ORS 418.040

Stats. Implemented: ORS 411.060 & 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 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 23-2003, f. & cert. ef. 10-1-03

461-145-0930

Exclusions Allowed from Self-Employment Income

This rule explains how exclusions are taken from self-employment gross income in the different programs. Gross income less exclusions leaves countable income. Costs of producing self-employment income, determined in accordance with OAR 461-145-0920, are excludable according to the following rules:

(1) In the REF program, no costs are excludable.

(2) In the MAA and TANF programs:

(a) For a client participating in the microenterprise component of the JOBS program, costs are excluded according to general accounting principals, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department, and OAR 461-145-0920.

(b) For all other clients, no costs are excludable.

(3) In the GA, MAF, OSIP, OSIPM, and QMB programs, all costs are excludable.

(4) In the Food Stamp program, if there are any excludable costs, the exclusion is 50 percent of gross self-employment income.

(5) In the ERDC program, if the client claims an excludable cost, the minimum exclusion is 50 percent of gross self-employment income and the maximum exclusion is the total excludable cost.

(6) In the OHP program, the minimum exclusion is 50 percent of gross self-employment income and the maximum exclusion is the total excludable cost.

Stat. Auth.: ORS 411.060, ORS 418.040 & 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 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1997, f. & cert. ef. 7-1-97; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; SSP 23-2003, f. & cert. ef. 10-1-03

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

This rule covers child care in the ERDC, JOBS, JOBS Plus, OFSET and TANF programs.

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: A child aged birth through 12 months.

(b) Toddler: A child aged 1 year through 30 months.

(c) Preschool Child: A child aged 31 months through 5 years.

(d) School Child: A child aged 6 years or older.

(e) *Special needs child*: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) The *Standard Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The *Enhanced Family Rate* applies to child care provided in the provider's own home or in the home of the child when the provider meets:

(A) The training requirements of the Professional Development Registry (PDR) entry level, established by the Oregon Center for Career Development in Childhood Care and Education; or

(B) The training requirements established by the Child Care Division for registered family providers who apply to become registered after October 1, 1999.

(c) The *Enhanced Group Rate* applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Group Child Day Care Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(d) The *Standard Center Rate* applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(e) The *Enhanced Center Rate* applies to child care provided in a center that is certified by the Child Care Division or in an exempt center whose staff meet the training requirements of the PDR entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the PDR entry level training requirements noted in section (2)(b)(A) of this rule.

(B) New staff must meet the PDR entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

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(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(f) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of section (2)(e) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of section (2)(b), (c), (e) or (f) of this rule.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours for a child is limited as follows:

(a) For the ERDC-BAS, OFSET and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a case plan (see OAR 461-190-0161 and 461-190-0310); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS or OFSET program.

(b) For the ERDC-SBG program, the total may not exceed the number of hours of care necessary for the client to maintain his or her education, training or employment. The total may not exceed 125 percent of the sum of 200 percent of class hours and the time the client is at work.

(c) In the ERDC-BAS and TANF programs, for a client who earns less than state minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the client's or child's circumstances, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, limited to 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in section (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly). [Tables not included. See ED. NOTE.]

(10) This section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is 1.50 times the amount given in OAR 461-155-0225(2)(a), rounded down to the next whole number. The ERDC copay is \$43 or the amount determined by the formula in subsection (b) of this section, whichever is greater.

(b) The maximum copay equals the constant determined by the table in subsection (c) of this section, added to the product of a constant determined by the table in subsection (d) of this section times the constant determined by the table in subsection (e) of this section raised to a power equal to the family's gross income, expressed in dollars. The formula is as follows: $y = k + (b \times m^x)$

(c) The constant k is determined by the number of people in the need group, as follows:

(A) 2 persons: k = -12

(B) 3 persons: k = -37

(C) 4 persons: k = -32

(D) 5 persons: k = -33

(E) 6 persons: k = -62

(F) 7 persons: k = -74

(G) 8 or more persons: k = -85

(d) The constant b is determined by the number of people in the need group, as follows:

(A) 2 persons: b = 18.0

(B) 3 persons: b = 23.0

(C) 4 persons: b = 20.9

(D) 5 persons: b = 20.6

(E) 6 persons: b = 33.2

(F) 7 persons: b = 33.2

(G) 8 or more persons: b = 40.4

(e) The constant m is determined by the number of people in the need group, as follows:

(A) 2 persons: m = 1.001885

(B) 3 persons: m = 1.001550

(C) 4 persons: m = 1.001380

(D) 5 persons: m = 1.001250

(E) 6 persons: m = 1.000990

(F) 7 persons: m = 1.000910

(G) 8 or more persons: m = 1.000795

(11) Copayment (copay) reduction benefit is limited as follows:

(a) For the period March 1, 2000 through December 31, 2002, a client's copay is limited to \$25 each month during the first two consecutive months the client is eligible for ERDC. The copay reduction benefit cannot be applied more than two months in any 12 consecutive months.

(b) For a client who becomes eligible for ERDC in January 2003, the copay is limited to \$25 for January and \$43 for February 2003. This copay reduction benefit does not apply to clients who have received the benefit after January 2002.

(c) The copay reduction benefit described in this section does not apply to a client who becomes eligible for ERDC after January 2003.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef.

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1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-155-0190

Income and Payment Standards; FS

(1) The FS Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The FS Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0120

Income of Father of Unborn, Ineligible Non-Citizens; MAF

(1) A need group ineligible for MAA that includes the father of an unborn or an ineligible non-citizen is evaluated for the MAF program by deeming the non-excluded income of the father or the ineligible non-citizens as provided in sections (2) and (3) of this rule. The amount deemed is counted as unearned income to the MAF financial group.

(2) If a person in the MAA financial group is excluded from the need group because he is the father of an unborn, the amount of the income deemed from the father is determined by deducting from his non-excluded income:

(a) The payment standard in OAR 461-155-0030(2) for one person; and

(b) The first \$90 of earned income.

(3) If one or more people in the MAA financial group are excluded from the need group for failure to meet the requirements of OAR 461-120-0120 (regarding citizenship and alien status), the amount of the income deemed from the ineligible non-citizens is determined by deducting from non-excluded income:

(a) The payment standard in OAR 461-155-0030(2) for the number of people who do not meet the citizenship or alien status requirements; and

(b) The first \$90 of earned income for each ineligible non-citizen.

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0160

Earned Income Deduction; MAA, REF, SAC, TANF

(1) In the REF and SAC programs, the earned income deduction authorized in this division of rules is allowed for each person in the financial group who has earned income. The earned income deduction is 50 percent of the client's gross earned income including self-employment income.

(2) In the MAA and TANF programs:

(a) For a self-employed client participating in the microenterprise component of the JOBS program, the earned income deduction for income earned in the microenterprise is 50 percent of the client's countable income calculated pursuant to OAR 461-145-0920 and 461-145-0930.

(b) For all other income, the earned income deduction is 50 percent of the client's gross earned income, including self-employment income.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 15-1991(Temp), f. & cert. ef. 8-16-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 16-1993, f. & cert. ef. 9-1-93; 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 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; FS

When a member of the financial group is not in the need group, benefits are calculated as follows:

(1) If the member is a qualified non-citizen (defined in OAR 461-120-0125(1)(a)-(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen were eligible.

(b) Benefits are then calculated as if the qualified non-citizen were not a member of the filing group. Any income received by another member of the filing group from the non-citizen is counted as income of the financial group. No expenses paid by the non-citizen are deducted from gross income.

(c) The household's benefits are the lesser of the amounts calculated in sections (1)(a) and (b) of this rule.

(2) The process described in section (3) of this rule is used if the member:

(a) Is a qualified non-citizen (as defined in OAR 461-120-0125(1)(i)) who does not meet the alien status requirements of OAR 461-120-0110;

(b) Is a non-citizen but not a qualified non-citizen;

(c) Is unwilling to disclose his or her alien status; or

(d) Is disqualified for failing to obtain or provide a SSN.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's *countable income* is prorated among the people in the financial group.

(b) The pro rata share of each person not in the need group is excluded.

(c) The rest of the prorated income is countable income for the financial group.

(4) Ineligible and disqualified members covered by section (2) of this rule are entitled to all income deductions, but deductions for shelter, child support, and dependent care are calculated as follows:

(a) The deductions, except deductions for the standard utility allowance, are prorated among the members of the financial group.

(b) The prorated share of the members of the need group is deducted.

(c) The deduction for the standard utility allowance is made in accordance with OAR 461-160-0420(8).

(5) The countable income of the following financial group members, subject to allowable deductions, is used to determine benefits:

(a) A client who is disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client who is:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0420

Shelter Cost; FS

(1) This rule explains how to calculate the client's shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the client's cost of housing plus an amount for utilities, if the client incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing:

(a) The following comprise the cost of housing if they are incurred with respect to the client's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the financial group's shelter, such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

ADMINISTRATIVE RULES

(D) If the need group is homeless and living in a vehicle – vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The financial group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing: If the filing group shares housing costs with a person in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by a person outside the filing group cannot be ascertained, the cost is apportioned among the people contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities:

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an amount included for utilities.

(c) If a homeless need group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the amount included in the shelter cost is either the full standard utility allowance or the limited standard utility allowance, according to the following distinction:

(A) Allowance with heating and cooling: A full standard utility allowance of \$266 is used if the household group is billed for heating and cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A financial group who receives an energy assistance payment for the dwelling provided through the Low-Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A).

(B) Allowance without heating and cooling: A limited standard utility allowance of \$195 is used if the household group is not billed for heating and cooling costs.

(5) Housing costs for a home not occupied by the household: Housing and utility costs with respect to a home not currently occupied by the household may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The financial group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the FS program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; 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 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0430

Income Deductions; FS

(1) Deductions from income are subtracted from countable income in the following order to determine *adjusted income* for the Food Stamp program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as JOBS Plus wages or Work Supplementation wages.

(b) A standard deduction of \$134 per month for benefit groups of one, two, three or four persons. A standard deduction of \$149 for a benefit group

of five persons. A standard deduction of \$171 for benefit groups of six or more persons.

(c) A dependent care deduction not to exceed \$175 each month for each dependent, or \$200 each month for each child under age 2, for dependent care costs billed to a member of the financial group and not paid for through the OFSET program or any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the need group to:

(A) Accept or continue employment;

(B) Meet the requirements of a *case plan* (see OAR 461-190-0310 for a definition of case plan); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for the *elderly* and *disabled* clients in the need group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments a member of the household makes under a legal obligation to a child not a member of the household group, including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For FS clients required to pay room and board in nonstandard living arrangements (see OAR 461-110-0110(13)), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the client can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other clients, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the need group has no *disabled* or *elderly* member. The limit is \$378.

(2) If the client cannot verify a medical or actual utility expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the client provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the initial month's benefits are recalculated using the deduction.

Stat. Auth.: ORS 411.816

Stat. Implemented: ORS 411.816 & ORS 411.825

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-0, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-160-0620

Income Deductions and Client Liability; Long-Term Care or Waivered Services

Deductions from income in the OSIP and OSIPM programs are made for clients specified in section (1) as explained in sections (1) through (9) of this rule. The client's liability is determined according to section (10).

(1) Deductions are made in the order below for clients who do not receive SSI and who:

(a) Reside in or are entering a long-term care facility; or

(b) Receive Title XIX waived services.

(2) One standard earned income deduction of \$65 is made from the earned income in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs. The deduction is \$85 in the OSIP-AB and OSIPM-AB programs. No earned income deduction is allowed for OHP or OSIPM-MN.

(3) In the OSIP and OSIPM programs, the deductions under the plan for self-support is made as allowed by OAR 461-140-0420.

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(4) One of the following need standards is deducted:

(a) A \$30 personal needs allowance for clients in long-term care.

(b) A \$90 personal needs allowance for clients in long-term care who are eligible for VA benefits based on unusual medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(c) The OSIP maintenance standard for clients who receive waived services.

(5) A community spouse monthly income allowance is deducted from the institutionalized spouse's income if the income is made available to (or for the benefit of) the community spouse. The amount of the allowance is determined in accordance with this section.

(a) If neither spouse is eligible for SSI and both receive waived services through the home- and community-based care program in the same residence or facility, and if either spouse's countable income is less than the one-person OSIPM payment standard, an allowance is calculated separately using calculation methods 1 and 2 below. The greater result is the allowance. For all other couples, the amount calculated using method 2 is the allowance.

(b) Calculation method 1: The allowance is the difference between the one-person payment standard of the OSIPM program (see OAR 461-155-0250) and the countable income of the spouse with the lesser countable income.

(c) Calculation method 2:

(A) Step 1 — Determine the maintenance needs allowance. \$1,515 is added to the amount over \$455 that is needed to pay monthly shelter expenses for the couple's principal residence. The sum or \$2,267, whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the Food Stamp program (see OAR 461-160-0420).

(B) Step 2 — Compare maintenance needs allowance with community spouse's gross income. The community spouse's gross income is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(6) A dependent income allowance is deducted for each eligible dependent as follows:

(a) For a case with a community spouse, a deduction is permitted only if the eligible dependent's monthly income is below \$1,515. To determine the eligible dependent's income allowance:

(A) The eligible dependent's monthly income is deducted from \$1,515.

(B) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the eligible dependent's income allowance.

(b) For a case with no community spouse:

(A) The allowance is the TANF adjusted income standard for the client and eligible dependents.

(B) The TANF standard is not reduced by the dependent's income.

(7) Costs for maintaining a home are deducted if the client meets the criteria in OAR 461-160-0630.

(8) In the OSIPM program, medical deductions allowed by OAR 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the client's dependent.

(9) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(10) The client liability is determined as follows:

(a) For waived clients (except in OSIPM-IC), the liability is the waived service cost or the client's adjusted income, whichever is less. This amount must be paid to the Department each month as a condition of receiving waived services. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(b) For long-term care clients, the liability is the cost of care or the adjusted income, whichever is less.

Stat. Auth.: ORS 411.060 & ORS 411.070

Stats. Implemented: ORS 411.060 & 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 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 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, 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 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 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-170-0010

Reporting Changes; When Changes Must be Reported

(1) When a client is required by this division of rules to report a change in circumstances, the report may be made by telephone, office visit, report form, or other written notice. The report must be made as follows:

(a) Changes reported outside the MRS or SRS must be reported within 10 days of occurring. A change of income is considered to occur as follows:

(A) For earned income, the change occurs upon the client's receipt of the first paycheck from a new job, on the client's receipt of the first paycheck reflecting a change in the rate of pay, or on the last day of employment in the case of a job separation.

(B) For unearned income, the change occurs the day the client receives the new or changed payment.

(b) Changes required to be reported through the MRS must be reported on the Monthly Report Change form designated by the Department and according to MRS requirements. Non-income changes must be reported according to OAR 461-170-0015.

(c) Clients using APR must report changes according to OAR 461-170-0015 and 461-170-0020. For clients using APR who report changes in amount of income outside the Periodic Review form, act on the change as soon as notice requirements allow.

(d) Clients using the semiannual reporting system (SRS) must report changes according to OAR 461-170-0020.

(2) Changes are considered reported effective the date the information is received by a DHS office that administers the Food Stamp program.

(3) Changes reported for one program are considered reported for all programs in which the client participates.

Stat. Auth.: ORS 411.060, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.816, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1992(Temp), f. & cert. ef. 5-1-92; 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 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03

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(3) or (4) or is exempted from the reporting requirement by section (5) of this rule:

(a) A change in members of the filing group and any resulting change in income;

(b) A change in employment, including getting, quitting or losing a job;

(c) A change in source of income;

(d) A change in earned income based on hourly wages when the change is due to:

(A) A change in the rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage; or

(B) A change greater than five in the number of hours worked each week when the change is expected to last one month or longer;

(e) A change in earned income, not based on hourly wages, of more than \$100 a month;

(f) A change in unearned income, except a change in a public assistance grant, of more than \$50;

(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) In the MAA, MAF, and TANF programs, clients must report a member of the filing group becoming pregnant. The report must be received by the Department not later than the 10th day after the client becomes aware of the pregnancy.

ADMINISTRATIVE RULES

(3) Clients in the monthly reporting system (MRS) must report changes in income as required by the rules applicable to the Monthly Change Report.

(4) Clients in the semiannual reporting system (SRS) must report, by the 10th day of the month following the month of occurrence, when monthly income exceeds the countable income limit in the Food Stamp program and when their mailing address changes. All other changes are required to be reported on the interim change report.

(5) A client participating in the transitional benefit alternative (TBA) in the Food Stamp program is not required to report changes.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.105

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SPP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-175-0200

Notice Situations; General Information

(1) For all programs except OHP and the Assessment Program, unless stated differently in a specific rule, the Department mails or otherwise provides the client with (sends) a decision notice as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical, or a request for a shelter payment under the JOBS program is approved or denied.

(b) A timely continuing benefit decision notice is sent whenever benefits are reduced or closed, or the method of payment changes to protective, vendor or two-party.

(c) A continuing benefit decision notice is sent whenever a TANF grant is less than the maximum amount due to a client's failure to comply fully with the Department's pay-after-performance requirements (see OAR 461-135-0180).

(2) A notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice, unless the delay resulted from the client requesting a hearing. If the notice is void, a new notice is sent to inform the financial group of a new date on which their benefits will be reduced or closed.

(3) A notice approving MAA, MAF, REF, REFM or TANF benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS Program entry.

(4) For ADCM-EA and EA, a basic decision notice is sent for all situations.

(5) For OHP:

(a) A basic decision notice is sent when benefits are approved or denied, when the premium amount changes, and when benefits are ended because the OHP certification period has ended.

(b) Unless otherwise provided for, a timely continuing benefit decision notice is sent whenever benefits are otherwise reduced or closed.

(6) For the Assessment Program, a basic decision notice is sent when payment for basic living expenses is denied. No other notices are required for this program.

(7) No decision notice is required if:

(a) Benefits are ended because the only eligible person(s) is deceased;

or

(b) A hearing order upholds a Department decision, and notice was sent before the client requested the hearing.

(c) A request for a support service is approved or denied in the JOBS program, except as provided in section (1) of this rule.

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

Stats. Implemented: ORS 411.060, ORS 411.117, ORS 411.816 & ORS 418.100

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 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; 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 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 23-2003, f. & cert. ef. 10-1-03

461-175-0305

Notice Situation; Removing a Person From a Benefit Group (EXT, FS, MAA, MAF, SAC, TANF) or Need Group (ERDC)

(1) To remove a person from a benefit group or from an ERDC need group, the following notices are used:

(a) A continuing benefit decision notice is used when the removal is based on information reported on the monthly change report, interim change report or periodic review form.

(b) A timely continuing benefit decision notice is used when the removal is not based on the monthly change report, interim change report or periodic review form.

(2) In the EXT, MAA, MAF, OHP, SAC and TANF programs, if a child is removed from the benefit group as a result of a court order or a voluntary placement in foster care by the child's caretaker relative, a basic decision notice is used.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; 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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-175-0340

Notice Situation; Voluntary Action

(1) Use the following criteria to determine if a decision notice must be sent when the filing group states they wish to withdraw their request for benefits, or the benefit group states they wish to reduce or to no longer receive benefits:

(a) For all programs except FS:

(A) If the request is made by phone or in person, send a timely continuing benefit decision notice.

(B) If the request is written and signed by the primary person, another adult member of the filing group, or the authorized representative, send a basic decision notice.

(b) For FS:

(A) If the request is made by phone, send a timely continuing benefit decision notice.

(B) If the request is made in person, send a basic decision notice.

(C) If the request is written and signed by the primary person, another adult member of the filing group, or the authorized representative, no notice is required.

(2) For FS, send a timely continuing benefit decision notice if the benefit group returns a signed Change Report form with information that requires a reduction or closure of benefits.

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 13-1991, f. & cert. ef. 7-1-91; SSP 23-2003, f. & cert. ef. 10-1-03

461-180-0090

Effective Dates; Initial Month Medical Benefits

The effective date for starting medical benefits for an eligible client is as follows:

(1) In the GAM, MAA, MAF, OSIPM, QMB-DW, REFM and SAC programs, it is the date the client requests benefits or, if the client does not meet all eligibility requirements on the *date of request*, the first day following the date the client requests benefits on which all eligibility requirements are met. See OAR 461-135-0875 and 461-180-0140 regarding retroactive eligibility for some medical programs.

(2) In the ADCM-EA program, it is the day benefits are issued.

(3) In the EXT program, it is the first of the month following the month that Assessment, MAA, or MAF program benefits end.

(4) In the OHP program:

(a) If the client completes the application within the time period described in OAR 461-115-0190:

(A) In the OHP-OPU program, it is the first of the month following the month in which the Department makes the eligibility determination.

(B) For all other OHP programs, it is the *date of request* (see OAR 461-115-0030) or, if the client does not meet all eligibility requirements on the date of request, the first day after the date of request that the client meets all eligibility requirements.

(b) If the client does not complete the application within the time period described in OAR 461-115-0190, the application will be denied. After the denial, the determination of an effective date requires a new *date of request* and application.

(5) In the QMB-BAS program, it is the first of the month after the benefit group has been determined to meet all QMB-BAS eligibility criteria and the Department receives the required verification.

(6) In the QMB-SMB program, it is the first of the month in which the benefit group meets all QMB-SMB eligibility criteria and the Department receives the required verification.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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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 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 5-2003, f. 2-26-03, cert. ef. 3-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-190-0161 JOBS Components and Activities

This rule contains definitions of the components and activities of the JOBS program. When used in this division of rules as defined in this rule, the terms appear in italics.

(1) **Assessment:** An activity of the program entry component that involves gathering information to identify a client's strengths, interests, family circumstances, status in the JOBS Program, and vocational aptitudes and preferences and to mutually determine an employment goal, the level of the client's participation in the JOBS Program, and which support services are needed.

(2) **Basic education:** A component intended to ensure functional literacy for all JOBS clients. Basic education activities are high school attendance, English as a second language (ESL) instruction, adult basic education (ABE) instruction, and services that result in obtaining a general equivalency diploma (GED). The component is discussed in OAR 461-190-0171 and 461-190-0181.

(3) **BASIS testing:** An activity in the program entry component. The BASIS test establishes the client's functional literacy level. Case plan (formerly also known as an employment development plan (EDP) – and also known as a personal plan or personal development plan):

(a) A written outline, developed by the client and case manager, with input from partners as appropriate, listing activities and goals for the client. The activities and goals are identified during the assessment and are intended to reduce the effect of barriers to the client's self sufficiency, employment, job retention, and wage enhancement. The case plan also identifies the support service payments the Department will make to help the client complete the plan. Completing a case plan is an activity of the program entry component.

(b) **English as a second language (ESL):** An activity in the basic education component. ESL classes are designed to give clients with limited English proficiency better working skills in the language.

(c) **Job readiness:** A component designed to prepare clients to compete in the local labor market. The sole activity is life skills.

(d) **Job search:** A component that focuses on clients looking for and obtaining employment. It is designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual job search. The component is discussed in OAR 461-190-0201.

(e) **Job skills training:** A component designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area. The component and activity are both called job skills training.

(4) **JOBS Plus program (JOBS Plus):** A component that provides TANF clients with on-the-job training and pays their benefits as wages. See the rules at OAR 461-190-0401 and following.

(a) **Life skills:** The activity of the job readiness component. The activity develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.

(b) **Microenterprise:** A component in which the client is self-employed in a sole proprietorship, partnership, or family business that has fewer than five employees and has capital needs no greater than \$35,000.

(c) **On-the-job training (OJT):** A component and activity in which a client works for an employer for a contracted period. The employer trains the client and is reimbursed by the Department, usually at 50 percent of the participant's wages, for those training costs.

(d) **Program entry:** The component that includes all the activities that prepare a client to actively participate in the JOBS program. Program entry activities are assessment, BASIS testing and writing the initial case plan.

(e) **Self-initiated training:** Education or training started by a client before being selected to participate in the JOBS program, including full-time attendance at an institution of higher education or other school offering vocational or technical training. The component and activity are both called self-initiated training and are discussed in OAR 461-190-0191.

(f) **Sheltered work or supported work:** A component that gives clients intensive staff support, skill training, intervention and counseling that will enable them to function independently at work.

(g) **UN work program:** A component in which TANF clients work in unsubsidized employment and may also participate in another JOBS work site training activity.

(h) **Work experience:** A component in which the client works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the client will become employed. Work experience is available through private for-profit businesses, nonprofit organizations or public agencies. Participation in a specific work experience assignment cannot exceed nine consecutive months.

(i) **Work supplementation:** Up to six months of work-site training provided by an employer. The component and activity are both called work supplementation. In work supplementation, the Department subsidizes the participant's wages by diverting up to \$200 per month of the participant's cash benefits to the employer. Participants who do not have medical coverage through their employer remain eligible for EXT, MAA, MAF or REFM.

Stat. Auth.: ORS 411.060 & ORS 418.100

Stats. Implemented: ORS 411.060 & ORS 418.100

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, 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 27-1993(Temp), f. & cert. ef. 11-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 21-2003(Temp), f. 8-29-03, cert. ef. 9-1-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-190-0197 Microenterprise Component

(1) A microenterprise is a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000. The microenterprise component is a component in which a self-employed TANF client (see OAR 461-145-0910(2) for definition of "self-employed client") can meet participation requirements of the JOBS program by working in a microenterprise.

(2) The Department will authorize a client to participate in the microenterprise component if the client is self-employed in a microenterprise and provides the Department with:

(a) A business plan for the microenterprise; and

(b) Approval of the business plan by an expert third party entity such as the United States Small Business Administration, a member program of the Oregon Microenterprise Network, the Service Corps of Retired Executives (SCORE), or an entity approved by the Department.

(3) The business plan required by section (2) of this rule must include provisions for review of the client's progress in the microenterprise by the approving entity.

(4) The Department may require a client to participate in other JOBS activities while participating in the microenterprise component. A client participating in the microenterprise component must:

(a) Participate in the microenterprise component for the number of hours required by the rules of the JOBS program; or

(b) Participate in the microenterprise component and other JOBS activities identified in the case plan for the number of hours required by the case plan.

(5) A client participating in the microenterprise component must provide quarterly to the Department a statement of the client's income prepared by a certified public accountant, bookkeeping firm, or other entity approved by the Department according to generally accepted accounting principles and OAR 461-145-0920.

(6) The Department will not authorize JOBS funds to be used for equipment, supplies, wages, or other business expenses that support the microenterprise.

Stat. Auth.: ORS 411.060, ORS 418.100

Stats. Implemented: ORS 411.060, ORS 418.100

Hist.: SSP 23-2003, f. & cert. ef. 10-1-03

461-195-0521 Special Rules for Calculation of Overpayments

This rule contains special rules for calculating an overpayment.

(1) If a client directly receives support that should be, but is not, used to reimburse the Department for assistance or to reduce benefits, there is an overpayment for the lesser of the following:

(a) The amount of support the client received directly that should have been used to reimburse the Department or reduce benefits; and

(b) The cash benefits received by the benefit group for the month, minus support from an obligor that was used as reimbursement to the state.

(2) If a client failed to comply with the requirements of OAR 461-120-0345 relating to medical insurance, an overpayment is calculated according to this section. The client is not included in the need group (see OAR 461-110-0630) during any period in which the client failed to meet a requirement of the OAR 461-120-0345 by withholding information or giving false information. Therefore, there is an overpayment equal to the dif-

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ference between the benefits the group received and the reduced amount it would have received had the client been removed from the need group.

(3) If the benefit group was categorically eligible for food stamps, there is no Food Stamp overpayment based on resources, Social Security account number, or residency. A Food Stamp overpayment may exist based on incorrect income.

(a) For a group found eligible for food stamps under OAR 461-135-0505(1)(a), (b) or (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for food stamps and would be entitled to at least \$10 in food stamp benefits.

(b) For a group found eligible for food stamps only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185% Federal Poverty Level, the group is no longer categorically eligible and the overpayment is the food stamp benefit amount.

(4) When a client receives waived services in the OSIPM program and does not contribute toward their services, the overpayment is either his or her adjusted income or the actual cost of the waived services, whichever is less.

(5) Credit against an overpayment is allowed as follows:

(a) In the GA, REF and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless it would have been authorized if requested.

(b) Credit is allowed for an underpayment of benefits.

(c) In the FS program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(6) Benefits paid during the notice period (see OAR 461-175-0050) are included in the calculation of the overpayment if:

(a) The client failed to report changes within the reporting time frame; and

(b) Benefits could have been adjusted in time to prevent the overpayment if the client had reported changes at any time within the reporting time frame.

(7) An overpayment is determined and calculated by assigning unreported income to the applicable budget month without averaging the unreported income. There is a rebuttable presumption that a client's earnings reported in a quarterly earnings report from the Employment Department were received by the client in equal amounts during the months identified in the report.

(8) Earned income deductions are applied in calculating an overpayment except as follows:

(a) For MAA, MAF, REF and TANF, no earned income deduction (see OAR 461-160-0160 and -0190) is allowed for a client who, without *good cause*, did either of the following:

(A) Failed to report all earned income within the reporting time frame.

(B) Under reported earned income.

(b) For FS, no deduction is applied to earned income not timely reported.

(9) For the purposes of section (8) of this rule, good cause means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(10) In the TANF program, the amount of support retained by the Department as current reimbursement each month is added to other income to determine ineligibility. In the case of a client not eligible for TANF, the overpayment is offset by support retained by the Department as current reimbursement.

(11) When a client has incurred an overpayment due to both an administrative error and a client error in the same month, the client error overpayment is calculated by determining the total overpayment for the month and subtracting from it the portion due to administrative error.

(12)(a) In the medical programs, there is no overpayment if the client was ineligible for financial assistance but, during the period in question, would have been eligible for EXT or any other medical program.

(b) When an overpayment is caused by administrative error, there is no corresponding overpayment in the medical programs if the client had been eligible to receive medical benefits under EXT, GAM, MAA, MAF, OSIPM or SAC. In such cases, the overpaid cash benefits are not counted as income in calculating eligibility for EXT, GAM, MAA, MAF, OSIPM or SAC and are not used in determining the client's *spend down* (see OAR 461-160-0080).

Stat. Auth.: ORS 411.060, ORS 411.660, ORS 411.816 & ORS 418.100

Stats. Implemented: ORS 411.060, ORS 411.630, ORS 411.635, ORS 411.660, ORS 411.816 & ORS 418.100

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; 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 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03

461-195-0541

Liability for Client Overpayments

(1) For all programs except the Food Stamp program, the following people are liable for repayment of an overpayment:

(a) Each person included in the benefit group when the overpayment was incurred, except for people who did not reside with, and did not know they were included in, the benefit group;

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred;

(c) A benefit group different from the group described in subsection (a) of this section containing a member of a benefit group that received an overpayment, subject to the following limitations:

(A) Recovery from the benefit group described in this subsection is limited to the part of the overpayment incurred while the member actually resided with, and was included in, the overpaid benefit group; and

(B) The Department will not collect from the second benefit group while it is recovering the overpayment from a person who was in the overpaid benefit group as an adult and unless it has unsuccessfully attempted to recover the overpayment from all people who were adult members of the overpaid benefit group.

(2) In the Food Stamp program, the following people are liable for repayment of an overpayment:

(a) The primary person (see OAR 461-110-0110) of any age, an ineligible student in the household, and all adults who were members of the filing group when excess benefits were issued, except no member of a financial group is liable for an overpayment caused by a change the group was not required to report.

(b) All members of a filing group that contains a person described in subsection (a) of this section.

(c) A drug or alcohol treatment center or residential care facility that acted as the client's authorized representative if it gave incorrect information or withheld information causing the overpayment.

(3) In all programs, both the noncitizen and the noncitizen's sponsor are liable for an overpayment incurred if the overpayment results from the sponsor's failure to provide correct information (see OAR 461-145-0820 through 0840). If the sponsor had good cause for withholding the information, the noncitizen alone is liable for the overpayment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.630 & ORS 411.635

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 23-2003, f. & cert. ef. 10-1-03

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Notice Publication Date:

Rules Amended: 461-155-0035, 461-155-0150, 461-190-0360

Subject: Rule 461-155-0035 is being amended to reflect increases in the amount of the Cooperation Incentive Payment standard.

Rule 461-155-0150 is being amended to decrease all ERDC copays by \$18 per month to implement a reduced copay for the first month of ERDC eligibility.

Rule 461-190-0360 is being amended to increase the maximum reimbursement to participants costs for participating in the Oregon Food Stamp Employment and Transition (OFSET) program components or activities to \$40 a month per participant.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0035

Cooperation Incentive Payment Standard; TANF and REF

(1) The cooperation incentive is a monthly payment added to the TANF cash grant. OAR 461-135-0210 explains who is eligible for this incentive payment.

(2) When there is an adult in the need group, the incentive payment is based on the number of people in the need group as follows:

(a) One person – \$26

(b) Two people – \$32

(c) Three people – \$43

(d) Four people – \$52

(e) Five people – \$52

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- (f) Six people – \$75
- (g) Seven people – \$75
- (h) Eight or more people – \$109

(3) When there is no adult in the need group, the incentive is calculated as follows:

(a) The payment authorized by section (1) of this rule is determined based on the number of people in the household group rather than in the need group. For instance, if there are three people in the household group, the amount used for this calculation is \$37.

(b) The figure obtained in subsection (a) is divided by the number of people in the household group, and the result is rounded to the next lower whole number.

(c) The figure obtained in subsection (b) is multiplied by the number of people in the need group. The result is the incentive payment.

Stat. Auth.: ORS 411.060 & ORS 418.100

Stats. Implemented: ORS 411.060 & ORS 418.100

Hist.: AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

This rule covers child care in the ERDC, JOBS, JOBS Plus, OFSET and TANF programs.

(1) The following definitions apply to the rules governing child care rates:

- (a) Infant: A child aged birth through 12 months.
- (b) Toddler: A child aged 1 year through 30 months.
- (c) Preschool Child: A child aged 31 months through 5 years.
- (d) School Child: A child aged 6 years or older.

(e) Special needs child: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets:

(A) The training requirements of the Professional Development Registry (PDR) entry level, established by the Oregon Center for Career Development in Childhood Care and Education; or

(B) The training requirements established by the Child Care Division for registered family providers who apply to become registered after October 1, 1999.

(c) The Enhanced Group Rate applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Group Child Day Care Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(d) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(e) The Enhanced Center Rate applies to child care provided in a center that is certified by the Child Care Division or in an exempt center whose staff meet the training requirements of the PDR entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the PDR entry level training requirements noted in section (2)(b)(A) of this rule.

(B) New staff must meet the PDR entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(f) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of section (2)(e) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of section (2)(b), (c), (e) or (f) of this rule.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours for a child is limited as follows:

(a) For the ERDC-BAS, OFSET and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a case plan (see OAR 461-190-0161 and 461-190-0310); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS or OFSET program.

(b) For the ERDC-SBG program, the total may not exceed the number of hours of care necessary for the client to maintain his or her education, training or employment. The total may not exceed 125 percent of the sum of 200 percent of class hours and the time the client is at work.

(c) In the ERDC-BAS and TANF programs, for a client who earns less than state minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the client's or child's circumstances, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, limited to 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in section (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

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(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly). [Tables not included. See ED. NOTE.]

(10) This section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is 1.50 times the amount given in OAR 461-155-0225(2)(a), rounded down to the next whole number. The ERDC copay is \$25 or the amount determined by the formula in subsection (b) of this section, whichever is greater.

(b) The maximum copay equals the constant determined by the table in subsection (c) of this section, added to the product of a constant determined by the table in subsection (d) of this section times the constant determined by the table in subsection (e) of this section raised to a power equal to the family's gross income, expressed in dollars. The formula is as follows: $y = k + (b \times m^x)$:

(c) The constant k is determined by the number of people in the need group, as follows:

- (A) 2 persons: $k = -30$
- (B) 3 persons: $k = -55$
- (C) 4 persons: $k = -50$
- (D) 5 persons: $k = -51$
- (E) 6 persons: $k = -80$
- (F) 7 persons: $k = -92$
- (G) 8 or more persons: $k = -103$

(d) The constant b is determined by the number of people in the need group, as follows:

- (A) 2 persons: $b = 18.0$
- (B) 3 persons: $b = 23.0$
- (C) 4 persons: $b = 20.9$
- (D) 5 persons: $b = 20.6$
- (E) 6 persons: $b = 33.2$
- (F) 7 persons: $b = 33.2$
- (G) 8 or more persons: $b = 40.4$

(e) The constant m is determined by the number of people in the need group, as follows:

- (A) 2 persons: $m = 1.001885$
- (B) 3 persons: $m = 1.001550$
- (C) 4 persons: $m = 1.001380$
- (D) 5 persons: $m = 1.001250$
- (E) 6 persons: $m = 1.000990$
- (F) 7 persons: $m = 1.000910$
- (G) 8 or more persons: $m = 1.000795$

(11) Effective October 1, 2003, a client's copay is limited to \$25 during the first month the client is eligible for ERDC. This limitation cannot be used in more than one month in any 12 consecutive months.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03

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 \$40 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; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03

Adm. Order No.: SSP 25-2003(Temp)

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03 thru 12-30-03

Notice Publication Date:

Rules Amended: 461-190-0161

Subject: Rule 461-190-0161 is being amended to add a definition of "vocational training".

Rules Coordinator: Annette Tesch—(503) 945-6067

461-190-0161

JOBS Components and Activities

This rule contains definitions of the components and activities of the JOBS program. When used in this division of rules as defined in this rule, the terms appear in italics.

(1) *Assessment:* An activity of the *program entry component* that involves gathering information to identify a client's strengths, interests, family circumstances, status in the JOBS Program, and vocational aptitudes and preferences and to mutually determine an employment goal, the level of the client's participation in the JOBS Program, and which *support services* are needed.

(2) *Basic education:* A *component* intended to ensure functional literacy for all JOBS clients. *Basic education activities* are high school attendance, *English as a second language* (ESL) instruction, adult basic education (ABE) instruction, and services that result in obtaining a general equivalency diploma (GED). The *component* is discussed in OAR 461-190-0171 and 461-190-0181.

(3) *BASIS testing:* An activity in the *program entry component*. The BASIS test establishes the client's functional literacy level.

(4) *Case plan* (formerly also known as an *employment development plan* (EDP) – and also known as a personal plan or personal development plan):

(a) A written outline, developed by the client and case manager, with input from partners as appropriate, listing *activities* and goals for the client. The *activities* and goals are identified during the *assessment* and are intended to reduce the effect of *barriers* to the client's self sufficiency, employment, job retention, and wage enhancement. The *case plan* also identifies the support service payments the Department will make to help the client complete the plan. Completing a *case plan* is an activity of the *program entry component*.

(b) *English as a second language* (ESL): An activity in the *basic education component*. ESL classes are designed to give clients with limited English proficiency better working skills in the language.

(c) *Job readiness:* A *component* designed to prepare clients to compete in the local labor market. The sole activity is *life skills*.

(d) *Job search:* A *component* that focuses on clients looking for and obtaining employment. It is designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual job search. The *component* is discussed in OAR 461-190-0201.

(e) *Job skills training:* A *component* designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area. The *component* and *activity* are both called *job skills training*.

(f) *JOBS Plus program* (JOBS Plus): A *component* that provides TANF clients with on-the-job training and pays their benefits as wages. See the rules at OAR 461-190-0401 and following:

(A) *Life skills:* The activity of the *job readiness component*. The activity develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.

(B) *Microenterprise:* A *component* in which the client is self-employed in a sole proprietorship, partnership, or family business that has fewer than five employees and has capital needs no greater than \$35,000.

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(C) *On-the-job training (OJT)*: A component and activity in which a client works for an employer for a contracted period. The employer trains the client and is reimbursed by the Department, usually at 50 percent of the participant's wages, for those training costs.

(D) *Program entry*: The component that includes all the activities that prepare a client to actively participate in the JOBS program. *Program entry activities* are *assessment*, *BASIS testing* and writing the initial *case plan*.

(E) *Self-initiated training*: Education or training started by a client before being selected to participate in the JOBS program, including full-time attendance at an institution of higher education or other school offering vocational or technical training. The *component* and *activity* are both called self-initiated training and are discussed in OAR 461-190-0191.

(F) *Sheltered work or supported work*: A component that gives clients intensive staff support, skill training, intervention and counseling that will enable them to function independently at work.

(G) *UN work program*: A component in which TANF clients work in *unsubsidized employment* and may also participate in another JOBS work site training activity.

(H) *Vocational Training*: A component of the JOBS Program that provides JOBS participants with access to specific vocational training that will lead to a career with an appropriate wage level and opportunity for employment. The training may not last longer than nine months.

(I) *Work experience*: A component in which the client works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the client will become employed. *Work experience* is available through private for-profit businesses, nonprofit organizations or public agencies. Participation in a specific work experience assignment cannot exceed nine consecutive months.

(J) *Work supplementation*: Up to six months of work-site training provided by an employer. The *component* and *activity* are both called work *supplementation*. In work *supplementation*, the Department subsidizes the participant's wages by diverting up to \$200 per month of the participant's cash benefits to the employer. Participants who do not have medical coverage through their employer remain eligible for EXT, MAA, MAF or REFM.

Stat. Auth.: ORS 411.060 & ORS 418.100
Stats. Implemented: ORS 411.060 & ORS 418.100
Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 1-1993, 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 27-1993(Temp), f. & cert. ef. 11-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 21-2003(Temp), f. 8-29-03, cert. ef. 9-1-03 thru 9-30-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 25-2003(Temp), f. & cert. ef. 10-1-03 thru 12-30-03

Adm. Order No.: SSP 26-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 8-1-03

Rules Amended: 461-150-0050, 461-155-0250

Subject: Rule 461-150-0050 is being amended to incorporate the new prospective and retrospective eligibility and quarterly budgeting process for the OSIP-EPD and OSIPM-EPD programs.

Rule 461-155-0250 is being amended to add the amount of earned income needed for someone to be considered Attached to the Workforce.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-150-0050

Use of Prospective or Retrospective Eligibility and Budgeting; GA, OSIP, OSIPM, QMB

Determine how and when to use prospective or retrospective eligibility and budgeting for GA, GAM, OSIP, OSIPM, and QMB as follows:

(1) For GA, GAM, OSIP (except OSIP-EPD and OSIP-IC), OSIPM (except OSIPM-EPD and OSIPM-IC), and QMB:

(a) For the initial month, use prospective eligibility and budgeting. Exclude money received from a nonrecurring source before the date of application. If any money remains after the date of application, count it as a resource.

(b) For ongoing months, use prospective eligibility and prospective budgeting for unearned income and stable earned income. Use retrospective budgeting for varying earned income.

(c) Deduct from the following month's benefit any unearned income received during the budget month that was not used to reduce the current

month's benefit. Supplement the benefit to restore lost benefits if anticipated income is not received.

(2) In the OSIP-EPD and OSIPM-EPD programs, quarterly budgeting is used as follows:

(a) For initial eligibility, a quarter begins the first full month that a client earns income. The quarter will be for three consecutive months. Eligibility begins no later than the date of request, notwithstanding any other eligibility requirements.

(b) For the initial quarterly period, prospective eligibility is used for earned income. Prospective budgeting is used for earned and unearned income. Unearned income received from a nonrecurring source prior to the date of application is excluded, and the remaining balance is a resource.

(c) For changes reported during a certification period, prospective eligibility is used for earned income. Prospective budgeting is used for earned and unearned income.

(d) For redeterminations of eligibility, the last month of eligibility plus the two prior months are used to constitute the quarter, unless prospective eligibility would be more indicative of future eligibility. If prospective eligibility is used, the last month of eligibility plus the following two months are used.

(3) For OSIP-IC and OSIPM-IC, the budget month is the initial month of eligibility.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03

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 waived nonstandard living arrangements, the countable income limit standard is 300 percent of the SSI standard. The one-person SSI standard is used for an individual who has no income and is living alone in the community to compute the countable income limit. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD, OSIPM-EPD and OSIPM-MN) adjusted income standard takes into consideration the need for housing, utilities, food, clothing, personal incidentals and household supplies. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The payment standard is used as the adjusted income limit and to calculate cash benefits for non-SSI OSIP clients. The OSIP-AB adjusted income/payment standard includes a transportation allowance. The total standard is: [Table not included. See ED. NOTE.]

(4) The payment standard for SSI/OSIP clients living in the community is either the SIP amount or the ESB amount. The SIP (supplemental income payment) is a need amount added to any other special or service needs to determine the actual payment. The ESB (excess SSI benefit) is a resource amount used to offset special and service need payments:

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than \$20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is \$20 or more: [Table not included. See ED. NOTE.]

(c) The SSI/OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, \$20 is added to the SIP amount.

(d) For SSI couples in an AFC, ALF or RCF, an amount is added to each person's SIP entry that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(5) For OSIP and OSIPM clients in long-term care, the following amounts are allowed for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unusual medical expenses (UME), \$90 is allowed.

(b) For all other clients, \$30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted income limit is 250 percent of the 2003 federal poverty level for a family of one. This 250 percent limit equals \$1,871 per month or \$22,452 per year.

(7) In the OSIP-EPD and OSIPM-EPD programs, \$890 in earnings is needed to meet the requirement in OAR 461-110-0115 for "sufficient earnings" in the definition of "attached to the workforce."

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

Stat. Auth.: ORS 411.060

ADMINISTRATIVE RULES

Stats. Implemented: ORS 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03

Adm. Order No.: SSP 27-2003(Temp)

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03 thru 12-31-03

Notice Publication Date:

Rules Amended: 461-193-0560

Subject: Rule 461-193-0560 is being amended to increase the monthly assistance grant that is given to refugees.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-193-0560

Full Monthly Payment Standards; Refugee Case Service Project

(1) The level of cash assistance benefit standard is determined by the number of participants in the case.

(2) The following is the monthly basic payment standard:

CASE SIZE — BASIC STANDARD

1 — \$ 336

2 — 427

3 — 503

4 — 617

5 — 712

6 — 830

7 — 915

8 — 1,034

9 — 1,094

10 — 1,199

11 — 1,304

12 — 1,407

13 and over — \$105 for each additional person

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 3-2003(Temp), f. & cert. ef. 2-14-03 thru 6-30-03; SSP 18-2003, f. & cert. ef. 7-1-03; SSP 27-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03

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

Adm. Order No.: SPD 15-2003

Filed with Sec. of State: 9-30-2003

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Notice Publication Date: 9-1-03

Rules Adopted: 411-030-0065

Rules Amended: 411-030-0020, 411-030-0033, 411-030-0040, 411-030-0050, 411-030-0060, 411-030-0070, 411-030-0080

Subject: The In-Home Services rules are being amended and rule 411-030-0065, Administrative Review and Hearing Rights, is being adopted as a result of the collective bargaining agreement between the Home Care Commission (represented by the Department of Administrative Services) and SEIU 503, OPEU Sub-local 99, the Homecare Worker's Union. Other minor changes were also made for clarification.

Rules Coordinator: Pam Rouske—(503) 945-6954

411-030-0020

Definitions

As used in these rules:

(1) "Activities of Daily Living" (ADL) means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities may include eating, dressing/grooming, bathing/personal hygiene, mobility, bowel and bladder management, and cognition.

(2) "Adult Protective Services" means a service to be provided in response to the need for protection from harm or neglect to an aged, dis-

abled, or blind person 18 years of age or older regardless of income, as described in 411-020-0000 through 411-020-0050.

(3) "Architectural Resources" means any service leading to the modification of the structure of a dwelling to meet a specific service need of the client.

(4) "Area Agency on Aging" (AAA) means the Department of Human Services (DHS) designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to the elderly and possibly the disabled in a planning and service area. For purposes of these rules, the term Area Agency on Aging (AAA) is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 through 410.300.

(5) "Burden of proof" means that the existence or nonexistence of a fact must be established by a preponderance of the evidence.

(6) "Business days" means Monday through Friday and excludes Saturdays and Sundays.

(7) "Case Management" means the service provided by a Department or Area Agency on Aging employee, which ensures the effective provision of services to the client.

(8) "Case Manager" means a person who ensures client entry, assessment, service planning, service implementation, and evaluation of the effectiveness of the services.

(9) "Client" means the individual eligible for in-home services.

(10) "Client-Employed Provider Program" (CEP) refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer/employee relationship, the Department of Human Services acts as an agent for the client-employer. These functions are clearly described in OAR 411-030-0060.

(11) "Cognition" means functions of the brain, which assist in orientation to person, place and time, decision-making, learning, and memory.

(12) "Companionship Services" means those services which are designated by the Department of Labor as meeting the personal needs of a client and which are exempt from federal and state minimum wage laws. These exemptions apply only to Live-In Services providers as defined in this rule.

(13) "Contracted In-Home Care" means a service provided through a contractor, which consists of minimal or substantial assistance with activities of daily living and self-management tasks. Clients that require full assistance with eating may also utilize contracted in-home care.

(14) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR 333-536-0000 through 333-536-0095 that provides hourly contracted in-home care to clients of the Department or Area Agency on Aging.

(15) "Contracted In-Home Care Specialist" means an employee of a contract agency who has recognized capability to provide the in-home care service tasks authorized for the clients they serve.

(16) "Cost Effective" means that a specific service meets the client's service needs while costing less over the long- or short-term than other service options considered.

(17) "Department" means the Department of Human Services, Seniors and People with Disabilities.

(18) "Evidence" means testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.

(19) "Exception" means a granting of the unusual use of or payment for a service that is expressly or implicitly prohibited within the In-Home Services rules, OAR chapter 411, division 030.

(20) "Fiscal Improprieties" means the Homecare Worker committed financial misconduct involving the client's money, property or benefits. Improprieties include, but are not limited to, financial exploitation, borrowing money from the client, taking the client's property or money, having the client purchase items for the Homecare Worker, forging the client's signature, falsifying payment records, claiming payment for hours not worked, or similar acts intentionally committed for financial gain.

(21) "Full Assistance" means the client is unable to do any part of an activity of daily living or task; i.e., it must be done entirely by someone else.

(22) "General Household Work" means, according to federal law, housecleaning, chore services, and other tasks provided by an employee that benefits non-client members of the household.

(23) "Health and Safety Emergencies" means the occurrence of a sudden change in a medical condition or an event of an accidental nature that requires evacuation from the premises, administration of prescription medication or first aid, or immediate treatment by medical personnel.

ADMINISTRATIVE RULES

(24) "Homecare Worker" means a provider, as described in OAR 411-030-0020 and 411-030-0060, who is directly employed by the client and provides either hourly or live-in services to eligible clients. Homecare Workers also include providers in the Spousal Pay Program.

(25) "Hourly Services" means the in-home services, including activities of daily living and self-management tasks, which are provided at regularly scheduled times. None of these hours are exempt from federal or state minimum wage or overtime laws.

(26) "Imminent Danger" means there is reasonable cause to believe a person's life or physical well-being is in danger if no intervention is initiated immediately.

(27) "Independent" means the client can perform the task without help.

(28) "In-Home Services" means those services that assist a client to stay in his/her own home.

(29) "Lack of skills, knowledge and ability to adequately or safely perform the required work" means the Homecare Worker does not possess the skills to perform services needed by Department clients. The Homecare Worker may not be physically, mentally, or emotionally capable of providing services to seniors and persons with disabilities. Their lack of skills may put clients at risk, because they fail to perform, or learn to perform, their duties adequately to meet the needs of the client.

(30) "Live-In Services" means those Client-Employed Provider Program Services provided when a client requires ADL, self-management tasks, and twenty-four hour availability. Time spent by the live-in employee doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements under the Companionship Services definition outlined in this rule. Such an exemption only exists when the employee actually resides in the home of the client for five calendar days in a calendar week.

(31) "Minimal Assistance" means the client is able to perform a majority of a task, but requires some assistance.

(32) "Office of Administrative Hearings" means the panel established within the Employment Department under section 9, chapter 849, Oregon Laws, 1999, that conducts contested case proceedings and other such duties on behalf of designated state agencies.

(33) "Oregon Project Independence" (OPI) means the program of in-home services defined in OAR chapter 411, division 032.

(34) "Preponderance of the evidence" means that one party's evidence is more convincing than the other party's.

(35) "Provider" means the individual who actually renders the service.

(36) "Provider enrollment" means a Homecare Worker's authorization to work as a provider employed by the client, for the purpose of receiving payment for authorized services provided to Department clients. Provider enrollment includes the issuance of a provider number.

(37) "Provider number" means an identifying number, issued to each Homecare Worker who is enrolled as a provider through the Department.

(38) "Provider Payments Unit" means the Seniors and People With Disabilities unit responsible for processing provider number requests.

(39) "Recognized Capability" means observed ability to competently perform an authorized task.

(40) "Registered Nurse Plan of Care" means a document completed by an RN identifying the tasks which must be provided to meet the client's assessed needs.

(41) "Respite" means securing a paid temporary replacement worker to perform the authorized duties normally performed by the primary provider, in order to allow the primary provider interim relief from providing care to the client. (42) "Self-Management" means those activities, other than activities of daily living, required by an individual to continue independent living; i.e., medication and oxygen management, transportation, meal preparation, shopping, and client-focused housekeeping.

(43) Seniors and People With Disabilities (SPD) means the part of the Department of Human Services responsible for rules and policy for programs associated with seniors and persons with disabilities.

(44) "Service Need" means those functions or activities with which the client requires the Department or Area Agency on Aging support.

(45) "Service Priority" means the order in which Department clients are found eligible for nursing home care, Home and Community-Based Services waiver programs, the Spousal Pay Program, and Oregon Project Independence.

(46) "Services are not provided as required" means the Homecare Worker does not provide the services to the client as described in the plan of care authorized by the Department.

(47) "Substantial Assistance" means a client can perform only a small portion of a task and requires assistance with a majority of a task.

(48) "Technological Resources" means those commodities or equipment considered likely to meet a client's service need.

(49) "Twenty-Four Hour Availability" means the availability and responsibility of an employee to meet Activities of Daily Living and self-management needs of a client as required by that client over a twenty-four hour period. These services are provided by a live-in employee and are exempt from federal and state minimum wage and overtime requirements.

(50) "Unacceptable conduct at work" means the Homecare Worker has repeatedly engaged in one of the following behaviors: delay in their arrival to work or absences from work not prior-scheduled with the client, which are either unsatisfactory to the client or which neglect the client's care needs; or inviting unwelcome guests or pets into the client's home, which results in the client's dissatisfaction or inattention to the client's required care needs.

(51) "Unacceptable criminal history" means that a criminal history check and fitness determination have been conducted pursuant to Administrative Rules 411, Division 009, finding the Homecare Worker unfit.

(52) "Violation of a drug-free workplace" means there was a substantiated complaint against the Homecare Worker using illicit drugs while responsible for the care of the client, or while in the client's home.

(53) "Violations of Protective Service and abuse laws" means the Homecare Worker violated protective service and abuse laws as described in 411-020-0002, Section 1. Abuse includes physical assault, use of inappropriate or derogatory language, financial exploitation, inappropriate sexual advances, neglect of care, and denying medical care or treatment. Abuse also includes the use of medications or physical restraints when used to discipline the client or for the convenience of the provider.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0033

Program Scope

(1) The In-Home Services Program is designed to provide essential supportive services that enable an individual to remain in his/her own home. The services range from assistance with general household tasks to assistance with activities of daily living. The extent of the services may vary from a few hours per week to full-time.

(2) In-home services may be provided either through the Client-Employed Provider Program, Spousal Pay Program, Independent Choices Program, or Oregon Project Independence Program. A description of these program options is contained in the OAR chapter 411, division 030, In-Home Services rules.

(3) A client residing in any of the following living arrangements may be considered for in-home services:

(a) A home, apartment, duplex, or condominium the client owns, leases, or rents.

(b) Both the client and the relative care provider have their names on the lease, mortgage, or property manager's rental agreement.

(c) The client lives with relatives or others, but receives paid hourly in-home services from someone who resides outside the home.

(d) The client moved in with a relative who:

(A) Owns, leases, or rents the home in which the client lives, and

(B) Is providing paid care services; and

(C) Is sharing a portion of shelter costs according to a rental or lease agreement with the client, and

(D) The intent of the client moving in was for reasons other than receiving paid care services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0040

Eligibility Criteria

(1) In-home services may be provided to those individuals who meet the established priorities for service as described in OAR chapter 411, division 015 and have been assessed to be in need of a service provided in OAR chapter 411, division 030. Payments for in-home services are not intended to replace the resources available to a client from their natural support system of relatives, friends, and neighbors. Payment by the Department can be considered or authorized only when such resources are not available, not sufficient, or cannot be developed to adequately meet the needs of the

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client. Care plans will be based upon the least costly means of providing adequate care.

(2) Clients must be included in one of the following groups:

(a) Current recipients of OSIPM who reside in one of the living arrangements described in OAR 411-030-0033(3) and who are eighteen years of age or older;

(b) Eligible adults, eighteen and older, receiving TANF with MAA, MAF or Extended Medical benefits only when service is necessary to prevent nursing facility placement; or

(c) Persons who are eligible for:

(A) Oregon Project Independence as defined in OAR chapter 411, division 032;

(B) Independent Choices as defined in OAR chapter 411, division 036;

(C) Spousal Pay Program as defined in OAR 411-030-0080; or

(3) Residents of licensed community-based care facilities are not eligible for the In-Home Services Program.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-12-93; Renumbered from 411-030-0001; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0050

Case Management

(1) Assessment:

(a) The assessment process will identify the client's ability to perform activities of daily living, self-management tasks, and determine the client's ability to address health and safety concerns. The case manager will conduct this assessment in accordance with standards of practices established by the Department.

(b) The assessment will be conducted by a case manager or other qualified Department or Area Agency on Aging representative in the client's home, no less than annually, with a standardized assessment tool approved by Seniors and People With Disabilities.

(2) Contract RN Assessment:

(a) Contract RN services are prior authorized by a Department or Area Agency on Aging case manager to provide:

(A) Nursing assessment and reassessment as appropriate;

(B) Medication review;

(C) Assignment of basic care tasks to a Homecare Worker; and

(D) Delegation of special tasks of nursing care to a Homecare Worker.

(b) Indicators of the need for RN assessment and monitoring include:

(A) Full assistance in cognition;

(B) Medical instability;

(C) Potential for skin breakdown or decubitus ulcer;

(D) Multiple health problems or frailty with a strong probability of deterioration; and

(E) Potential for increased self-care, but instruction and support for the client are needed to reach goals.

(c) Maximum hours for each contracted RN service will be established by the Department.

(3) Service Plan:

(a) The client and case manager, with the assistance of other involved individuals, will consider in-home service options as well as architectural, technological, and other community-based care resources to meet the service needs identified in the assessment process.

(b) The case manager has responsibility for determining client eligibility for specific services, presenting alternatives to the client, and assuring the cost effectiveness of the plan. The case manager will monitor the plan and make adjustments as needed.

(c) The client has the primary responsibility for choosing and, whenever possible, developing the most cost-effective service options, including the Client-Employed Provider Program and Contracted In-Home Care Agency services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 12-1985(Temp), f. & ef. 9-19-85; SSD 16-1985, f. 12-31-85, ef. 1-1-86; SSD 4-1987(Temp), f. & ef. 7-1-87; SSD 1-1988, f. & cert. ef. 3-1-88; SSD 6-1988, f. & cert. ef. 7-1-88; SSD 9-1989, f. 6-30-89, cert. ef. 7-1-89; SSD 11-1989(Temp), f. & cert. ef. 9-1-89; SSD 18-1989, f. 12-29-89, cert. ef. 1-1-90; SSD 7-1990(Temp), f. & cert. ef. 3-1-90; SSD 16-1990, f. & cert. ef. 8-20-90; SSD 1-1992, f. & cert. ef. 2-21-92; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; Renumbered from 411-030-0022; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0060

Client-Employed Provider Program

The Client-Employed Provider Program contains systems and payment structures to employ both hourly and live-in providers. The live-in

structure assumes that the provider will be required for activities of daily living and self-management tasks and twenty-four hour availability. The hourly structure assumes that the provider will be required for activities of daily living and self-management tasks during specific substantial periods. Except as indicated, all of the following criteria apply to both structures:

(1) Employment Relationship: The relationship between the provider and the client is that of employee and employer.

(2) Job Descriptions: Each client/employer, in cooperation with the case manager, or if present, contracted Registered Nurse, will create a job description for the potential employee. Such descriptions will make it clear that general household work will comprise less than 20% of the live-in employee's time.

(3) Employee's Liabilities: Employees bear sole responsibility for state and federal income taxes due on earnings as an employee of the client/employer. Both the employer and the Department explicitly deny any responsibility for deducting personal income tax withholdings from the employee's check. The employee is not covered by Workers' Compensation under Oregon Law. Additionally, under Oregon law the employee is not covered by any other state-defined benefit as a state employee. This exclusion includes but is not limited to the Public Employees Retirement System.

(4) Interruption of Services

(a) When a client is absent from the home due to an illness or medical treatment and is expected to return to the home, a live-in provider, who is the only live-in provider for a client, may be retained to ensure his/her presence upon the client's return or to maintain the client's home for up to 30 days at the rate of pay immediately preceding the client's absence. Spousal Pay Providers are not eligible for payment during a client absence.

(b) The required meals and lodging expenses of the provider, while providing these services fifty miles or more from the client's residence, will be covered. Such expenses, including mileage allowed under Section (11) of this rule, will be covered by the Office of Medical Assistance Programs, whenever possible.

(5) Selection of Employee: The client carries primary responsibility for locating, interviewing, screening, and hiring his/her own employees. The right to employ the individual of his/her choice stands without regard to any limitations established by the legislature or federal government, except for Immigration and Naturalization Service Rules.

(6) Employment Agreement: The client/employer retains the full right to establish the employer/employee relationship at any time after Immigration and Naturalization Service papers have been completed and identification photocopied. No guarantee of payment for those services will be made by the Department until all acceptable employee standards have been verified and both the employer and employee have been formally notified in writing that payment by the Department is authorized.

(7) Termination of Employment: Terms of dismissal or resignation notice are the sole responsibility of the employer to establish at the time of employment.

(8) Provider Enrollment

(a) Enrollment Standards: A Homecare Worker must meet the following standards to be enrolled with the Department's Client-Employed Provider Program:

(A) The Homecare Worker must maintain a drug-free work place;

(B) The Homecare Worker must have an acceptable criminal record as defined in OAR Chapter 411, Division 009;

(C) The Homecare Worker must have the skills, knowledge, and ability to perform, or to learn to perform the required work;

(D) The Homecare Worker's U.S. employment authorization must be verified; and

(E) The Homecare Worker must be 18 years of age or older, unless the local DHS/AAA office has received approval from DHS Central Office to enroll a Homecare Worker who is at least sixteen years of age.

(b) The Department may deny an application for provider enrollment in the Client-Employed Provider Program when:

(A) The applicant has a history of violating protective service, abuse and neglect laws;

(B) The applicant has committed fiscal improprieties;

(C) The applicant does not have the skills, knowledge or ability to adequately or safely provide services;

(D) The applicant has an unacceptable criminal record;

(E) The applicant is not 18 years of age;

(F) The applicant has been excluded by the Health and Human Services, Office of Inspector General, from participation in Medicaid, Medicare and all other Federal health care programs; or

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(G) The Department has information that enrolling the applicant as a Homecare Worker would put vulnerable clients at risk.

(9) Paid Leave

(a) Live-in Home Care Workers: When a live-in employee or Spousal Pay Provider is the only employee during the course of a month, or if that employee is the only employee for the beginning or end of a month due to termination or initiation of employment with that employer, the Department will authorize one twenty-four hour period of leave each month. For any part of a month worked, the employee will receive a proportional share of that twenty-four hour period of leave authorization.

(b) Accumulation and Usage: A provider may not accumulate more than 144 hours of accrued leave. The employer, employee, and case manager will coordinate the timely use of these hours. Usage may be in one-hour increments

(c) Transferability of Paid Leave: The employee retains the right to earned paid leave when terminating employment with one employer, so long as the employee is employed with another employer as a live-in within one year of termination.

(d) Hourly Homecare Workers: Effective July of each year, active Homecare Workers who worked eighty (80) authorized and paid hours in any one (1) of the three (3) previous months of active employment will be credited with eight (8) hours of paid leave to use during the current fiscal year (July 1 through June 30). Such leave will not be cumulative from year to year. Such time off must be utilized in one (1) eight (8)-hour block subject to authorization. If the Homecare Worker's normal workday is less than eight (8) hours, such time off may be utilized in blocks equivalent to the normal workday. Any remaining hours that are less than the normally scheduled workday may be taken as a single block. If the accrued hours are not used within the fiscal year, the balance will be reduced to zero (0). Homecare Workers will not be compensated for paid leave unless the time off work is actually taken.

(10) Department Fiscal and Accounting Responsibility.

(a) Direct Service Payments: The Department will make payment to the provider on behalf of the client for all client-employed in-home services, whether authorized by a Department or Area Agency on Aging local Office. This payment will be considered full payment for the services rendered under Title XIX. Under no circumstances is the employee to demand or receive additional payment for these services from the client or any other source.

(b) Ancillary Contributions:

(A) Acting on behalf of the Client/Employer, the Department will apply any applicable FICA (Federal Insurance Contributions Act) regulations and will:

- (i) Withhold the provider/employee contribution from payments;
- (ii) Refund previously withheld amounts when it is determined the provider/employee is not subject to withholdings; and
- (iii) Submit the Client/Employer contribution and the amounts withheld from the provider/employee to the Social Security Administration.

(B) The Department will pay the employer's share of the Unemployment Tax.

(C) The Department will not pay the client for food and shelter expenses associated with employing a live-in provider.

(D) A hardship shelter allowance may be authorized for a client having a live-in provider on or after September 1, 1995, if one of the following conditions is met:

(i) The client will be forced to move from their current dwelling and his/her current average monthly rent or mortgage costs exceed current OSIP and OSIPM standards for a one-person need group as outlined in OAR 461-155-0250; or

(ii) Service costs would significantly increase as a result of the client being unable to provide living quarters for a necessary live-in provider.

(c) Ancillary Withholdings. For purposes of Section (10)(c) of this rule, "labor organization" means any organization that has, as one of its purposes, representing employees in their employment relations.

(A) The Department will deduct from the provider's monthly salary or wages the specified amount for payment to a labor organization.

(B) In order to receive this payment, the labor organization must enter into a written agreement with the Department to pay the actual administrative costs of the deductions.

(C) The Department will pay the deducted amount monthly to the designated labor organization.

(11) Employee Expenses Secondary to Performance of Duties

(a) Providers may be reimbursed at the published state mileage rate when they use their own car for care plan related transportation, if prior authorized by the case manager. If unscheduled transportation needs arise

during non-office hours, an explanation as to the need for the transportation must be provided and approved prior to reimbursement.

(b) Volunteer transportation and other transportation services included in the care plan will be considered a prior resource.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SSD 8-1995, f. 8-31-95, cert. ef. 9-1-95; SSD 10-1995(Temp), f. & cert. ef. 9-8-95; SSD 4-1996, f. 3-29-96, cert. ef. 4-1-96; SSD 2-1997, f. 8-29-97, cert. ef. 9-1-97; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0065

Administrative Review and Hearing Rights

This rule establishes the appeal and hearing rights for Homecare Workers when the Department suspends or terminates the HCW's provider enrollment.

(1) Exclusions to Appeal and Hearings Rights

(a) The following are excluded from this administrative review and hearing rights process:

(A) Terminations based on criminal history. The Homecare Worker has the right to a hearing within OAR 411-009-0000 through 411-009-0110.

(B) Homecare Workers that have not worked in the last twelve months. The provider enrollment may become inactivated but will not be suspended or terminated. To activate the provider enrollment number, the HCW must complete an application and criminal history clearance

(C) Homecare Workers that fail to complete a criminal history recheck.

(D) Homecare workers that are denied a provider enrollment number at the time of initial application.

(b) These rules only apply to Homecare Workers as defined in OAR 411-030-0060. These rules do not include any other providers enrolled, licensed or otherwise registered by the Department of Human Services.

(2) Violations Suspending or Terminating Provider Enrollment

(a) The Department may suspend or terminate the Homecare Worker's provider enrollment number when a Homecare Worker:

(A) Violates the requirement to maintain a drug-free work place;

(B) Has an unacceptable criminal history as defined in OAR chapter 411, division 009,

(C) Lacks the skills, knowledge, and ability to adequately or safely perform the required work,

(D) Violates protective service and abuse laws, as defined in OAR chapter 411, division 020;

(E) Commits fiscal improprieties;

(F) Fails to provide services as required; or

(G) Engages in unacceptable conduct at work.

(3) Suspension: The Department may suspend a provider enrollment immediately, prior to the outcome of the administrative review when an alleged violation presents imminent danger to current or future clients. The Homecare Worker may file an appeal of this decision directly to DHS Central Office.

(4) Administrative Review Process: The Administrative Review process allows an opportunity for the program manager or DHS Central Office to review and reconsider a decision affecting the Homecare Worker. The appeal may include the provision of new information or other actions that may result in the Department changing its decision. The Homecare Worker should be offered an informal conference to discuss the allegation and provide any information that may change the outcome of the Department's decision.

(a) At the time a suspension or proposed termination of the Homecare Worker's provider enrollment is made, the Department will issue a written notice that will include:

(A) An explanation of the reasons for suspension or proposed termination of the provider enrollment,

(B) The alleged violation as listed in OAR 411-030-0065, and

(C) The Homecare Worker's appeal rights, including the right to union representation, and where to file the appeal.

(b) For suspensions or terminations based on substantiated protective services complaint, the letter may only contain the limited information allowed by law.

(c) The Homecare Worker must specify in the request for review the issues or decisions being appealed and the reason for the appeal. The appropriate party, as stated in the notice, must receive the request for review within ten (10) business days of the decision affecting the worker. The Homecare Worker may file an appeal in the following order:

(A) The Program Manager (or designee) at the local office;

(B) DHS Central Office;

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(C) Office of Administrative Hearings

(i) A Homecare Worker can file a request for a hearing with the Office of Administrative Hearings if all levels of review have been exhausted, and the worker continues to dispute the Department's decision. The request can be filed through the local office with the Office of Administrative Hearings, as described in OAR 137, division 003. The request for the hearing must be filed within 30 calendar days of the written notice from DHS Central Office.

(ii) An Administrative Law Judge (ALJ) with the Office of Administrative Hearings will determine whether the Departments' decision to terminate the provider enrollment number is affirmed or reversed. The ALJ will issue a Final Order with the decision to all appropriate parties.

(iii) No additional hearing rights have been granted to Homecare Workers by this rule, other than the right to a hearing on the Department's decision to terminate the Homecare Worker's provider enrollment number.

(d) In the first two steps of the administrative review process, a written response of the outcome of the review will be sent to the Homecare Worker within ten business days of the review date.

(5) Termination if No Appeal Filed: The decision of the reviewer will become final if the Homecare Worker does not appeal within ten business days of the notice of the decision affecting the Homecare Worker.

(6) Request for Extension to Deadline: The Department or the Homecare Worker may request an extension of the 10-day deadline for circumstances beyond their control, if further information needs to be gathered to make a decision or there is difficulty in scheduling a meeting between the parties.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Hist.: SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0070

Maximum Hours of Service

(1) Maximum Monthly Hours for Activities of Daily Living:

(a) The planning process will use the following parameters for time allotments for ADL tasks:

(A) Eating: Minimal assistance – 5 hours; substantial assistance – 20 hours; full assistance – 30 hours;

(B) Dressing: Minimal assistance – 5 hours; substantial assistance – 15 hours; full assistance – 20 hours;

(C) Bathing and Personal Hygiene: Minimal assistance – 10 hours; substantial assistance – 15 hours; full assistance – 25 hours;

(D) Mobility: Minimal assistance – 10 hours; substantial assistance – 15 hours; full assistance – 25 hours;

(E) Bowel and Bladder: Minimal assistance – 10 hours; substantial assistance – 20 hours; full assistance – 25 hours;

(F) Cognition: Minimal assistance – 5 hours; substantial assistance – 10 hours; full assistance – 20 hours.

(b) If an individual requires full assistance in mobility and does not need the maximum hours for cognition, the unused cognition hours may be used to supplement the ADL total, if such hours are needed to meet detailed ADL service needs.

(c) For two-client households, each person's service needs are considered separately.

(d) Hours authorized for activities of daily living are paid at a rate established and published by the Department. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(2) Maximum Hours for Self-Management Tasks:

(a) The planning process will use the following parameters for time allotments for all services:

(A) Medication Management: Minimal assistance – 2 hours; substantial assistance – 4 hours; full assistance – 6 hours;

(B) Transportation or Escort Services: Minimal assistance – 2 hours; substantial assistance – 3 hours; full assistance – 5 hours;

(C) Meal Preparation: Minimal assistance – Breakfast – 4 hours, lunch – 4 hours, supper – 8 hours; substantial assistance – breakfast – 8 hours, lunch – 8 hours, supper – 16 hours; full assistance – breakfast – 12 hours, lunch – 12 hours, supper – 24 hours;

(D) Shopping: Minimal assistance – 2 hours; substantial assistance – 4 hours; full assistance – 6 hours;

(E) Housecleaning: Minimal assistance – 5 hours; substantial assistance – 10 hours; full assistance – 20 hours.

(b) Rates paid will be established and published by the Department. When a live-in employee is present, these hours may be paid at less than minimum wage according to the companionship definition in the Fair

Labor Standards Act. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(c) When two clients eligible for self-management task hours live in the same household, the assessed self-management need of each client will be calculated. Payment will be made for the higher of the two allotments and a total of four additional hours per month to allow for the second client's specific needs.

(3) Twenty-Four Hour Availability:

(a) Payment for twenty-four availability will be considered only when the client uses a Homecare Worker and requires this availability due to both of the following:

(A) The client requires minimal, substantial, or full assistance with meeting health or safety emergencies; and

(B) The client requires assistance with activities of daily living and/or self-management tasks at unpredictable times throughout most twenty-four hour periods.

(b) The number of hours allowed per month will be negotiable, but have the following maximums:

(A) Minimal assistance – 50 hours;

(B) Substantial assistance – 110 hours;

(C) Full assistance – 159 hours.

(c) Rates for this availability will be established and published by the Department and be considered eligible for "companionship" designation under state and federal laws. Exceptions may be granted by the Department when conditions are met as established in OAR 411-027-0000.

(4) Under no circumstances will any provider receive payment from the Department for more than the total amount authorized by the Department on the In-Home Services Authorization Form.

(5) Authorized hours are subject to the extent of client need and the availability of funds. Case managers must assess and utilize as appropriate, available friends and family members, cost-effective assistive devices, durable medical equipment and/or housing accommodations, which could reduce the client's reliance on paid in-home service hours.

(6) It is the intent of the Department to authorize paid in-home services only to the extent necessary to supplement potential or existing resources within the client's personal support system.

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

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDDS 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDDS 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

411-030-0080

Spousal Pay Program

(1) Spousal Pay Program Eligibility: In-home care provided by the spouse of an OSIPM client is compensable by the Department under ORS 411.803 only when the following conditions are met:

(a) The client requires full assistance in at least four of the six activities of daily living, as determined by the assessment, and would require nursing facility placement without in-home services;

(b) The client has a medically diagnosed progressive debilitating condition which will limit additional activities of daily living, or has experienced a spinal cord injury or similar disability with permanent impairment of the ability to perform activities of daily living;

(c) The spouse demonstrates the capability and health to provide the services and actually provides the principal care for which payment has been authorized; and

(d) The client's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another.

(2) Establishment and maintenance of a centralized waiting list for eligible clients requesting services compensated through the Spousal Pay Program.

(a) The Department's Central Office staff will establish and maintain a list of eligible clients based on referrals from local offices.

(b) The Department has established funding to serve a biennial limit on the number of Spousal Pay clients in the program each month.

(c) When the biennial limit is reached, clients requesting services through the Spousal Pay Program, whose eligibility determination process has been finalized, will be placed on a waiting list. Names on the waiting list will be entered according to the date submitted by the local office.

(d) Prior to submission of name, applicants must have completed:

(A) The financial application process; and

(B) Had an assessment of service needs completed by the appropriate local office staff.

(e) As vacancies occur, eligible waiting list clients will be selected in order of submission, as defined in section (2)(c) of this rule.

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(f) Clients on the waiting list may receive services through other appropriate Department programs for which they are eligible.

(3) Payments:

(a) All payments will be prior authorized by the Department or it's designee.

(b) Payments will be based on the equivalent of one-half of the 24-hour availability and self-management task hours, plus the time required for specific documented activities of daily living.

(c) Payment of any respite care will be the responsibility of the spouse and not be paid by the Department.

(d) Payment to a spouse is not considered as a need item to establish initial eligibility or continuing eligibility for OSIPM.

(e) Under ORS 411.802, Homecare Workers who become the spouse of their employer will retain the same level of pay as described in OAR 411-030-0070 if their employer meets the spousal pay eligibility criteria as described in subsection (1)(a) of this rule.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; Renumbered from 411-030-0027; SDSD 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03

Department of Human Services, Vocational Rehabilitation Services Chapter 582

Adm. Order No.: VRS 1-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 9-1-03

Rules Amended: 582-070-0020, 582-070-0025

Subject: The Office of Vocational Rehabilitation Services (OVR) amends permanent Division 70 rules concerning Applicant/Client Transportation. These amended rules more accurately describe the standards for OVR services related to vehicle purchase and vehicle modification including a definition of critical terms, the nature and scope of program services, the general purpose of the provision for vehicle modifications, and funding limitations. These amendments accurately reflect existing spending authority and more directly correlate the approval process involved in second or subsequent modifications to accommodation needs due to changes in individual disability.

Rules Coordinator: Robert Trachtenberg—(503) 945-6734

582-070-0020

Specific Policies

Specific rules pertain to the provision of the following services:

(1) On-the-Job Training:

(a) Payment to on-the-job trainers/employers for training services will be negotiated at the lowest reasonable level and will always be considered as reimbursement for actual expenses and/or trainer time; the trainer/employer cannot expect to make a profit from such payments;

(b) Offset against client wages will be negotiated with the trainer/employer on a mutual sharing basis at the lowest reasonable level to adequately pay the client for his/her productive work efforts with the trainer/employer ultimately paying the entire wage. Total length of the training program and length of VRD involvement in payments will be negotiated on the basis of the complexity of the training and the amount of relevant skill and knowledge the client possesses prior to entering training.

(2) Training: Educational and training services, except on-the-job training, must be purchased from public educational organizations in Oregon. Exceptions are authorized only when:

(a) No publicly-supported school provides the courses necessary for the client's needs in order to reach the vocational objective; or

(b) A client cannot utilize publicly-supported schools because of his or her disability; or

(c) VRD's financial participation in the plan is no greater than if the client had enrolled at the nearest appropriate publicly-supported school; or

(d) The net cost to Oregon governmental agencies is significantly less; or

(e) The training services for the client will be significantly delayed.

(3) Client Maintenance:

(a) Supplemental maintenance can be provided only when the client's maintenance costs are increased due to his or her involvement in evaluation

of vocational potential (e.g., per diem essential to travel for diagnostic purposes) or a rehabilitation program and the client does not possess sufficient financial resources to provide for these expenses;

(b) Maintenance is not available during a period when planned services are interrupted (status 24);

(c) Any exceptions to subsection (3)(b) of this rule require Branch Manager approval prior to authorization.

(4) Clothing Purchases: Clothing purchases may be authorized if the need is a result of participation by the client in a rehabilitation program and the client does not possess sufficient financial resources to provide for these expenses. These must be appropriate in type and in a price range, comparable to clothing items normally used by persons engaged in similar rehabilitation, training or employment settings.

(5) Client/Applicant Transportation: travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a required vocational rehabilitation service. Assistance by the Office of Vocational Rehabilitation Services (OVR) with transportation services will be subject to the following:

(a) Where local public transportation is available and can be used by the client, any reimbursement will not exceed the public transportation rate. Use of transportation costing in excess of the least expensive mode available to the client requires written justification, by the counselor, prior to authorization (e.g., disability prevents using the least costly mode);

(b) Where public transportation is not available or cannot be used by the client due to his/her disability, reimbursement may be authorized by the counselor for use of private vehicle or other appropriate forms of transportation;

(c) Only when determined by OVR to be the most feasible means of providing for necessary client transportation for rehabilitation services may vehicle modification be authorized. Any vehicle modification must be prior approved by the local OVR Field Office Manager, Field Operations Manager, or Administrator (or designee), depending on the expenditure level. Administrative level approval is obtained prior to authorizing any such costs in excess of \$5,000.00 per service; vehicle modifications are subject to OVR established policies for purchasing authorization;

(d) The field counselor will inform the client that costs associated with insurance, repair and replacement are to be managed by the client after a modification is complete;

(e) It is the policy of OVR to not purchase vehicles; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle where the conditions in OAR 582-070-0025(2) are applicable.

(f) Whenever an exception is made by OVR allowing payment toward the cost of a motor vehicle, OVR will require that OVR be shown as the primary lien holder until successful case closure has been achieved. Ownership is transferred to the client only if: (1) the vehicle is needed to participate in employment, and (2) there is a successful case closure. When client ownership is not justified based on these two criteria, the vehicle shall be repossessed and reassigned or otherwise disposed of by OVR.

(6) Community Rehabilitation Programs' Services.

NOTE: Refer also to OAR 582-010.

(a) The Division establishes statewide standards for the purchase of community rehabilitation program (CRP) services and establishes Statements of Assurances and Conditions with each individual CRP having a service program the Division wishes to purchase, in excess of \$5,000 per CRP per fiscal year, for its clients;

(b) Except for minimal use (under \$5,000 per year) of approved vendors, it is the policy of the Division to use only "Approved" Community Rehabilitation Programs having current Statements of Assurances and Conditions or unexpired Certifications which were implemented prior to April 1, 1994;

(c) State-wide rates are intended to pay only the anticipated cost of standard rehabilitation services. This fee schedule may be adjusted for a specific CRP to reflect non-standard types or levels of service, or statewide for standard service, if a significant increase or decrease in the actual cost of serving clients occurs;

(d) For Community Rehabilitation Programs operated under private auspices, fees may be negotiated taking into consideration costs such as buildings, staffing and equipment. For publicly owned and operated Community Rehabilitation Programs (e.g., state or county owned or operated) fees, if any, must be based upon and not exceed actual costs;

(e) If it is determined that services consistently fall below established State Standards for Community Rehabilitation Programs (see OAR 582-010), approval and/or certification (for a certification implemented before April 1, 1994, and otherwise valid until scheduled expiration date) shall be

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terminated and utilization discontinued until that CRP's operation is brought within acceptable standards.

(7) **Extended Evaluation:** Except for Placement Services, Placement Equipment, or Placement Services leading to Self-Employment, Extended Evaluation (of up to 18 months) may consist of any reasonable services essential to determining eligibility/ineligibility or extent and scope of needed services.

(8) **Personal Care Assistance (PCA):** Is provided only when necessary to allow client to benefit from other rehabilitation services, including evaluation:

(a) **Client as Employer:** The client, in most cases, as the employer of the PCA may be reimbursed for necessary PCA services required to participate in rehabilitation services;

(b) **Third Party Vendor:** Direct payment to the PCA vendor by the Division requires prior approval by the Branch Manager;

(c) **Written Contract:** In most instances the client is to be the employer of his/her own personal care assistant. The Division may assist the client to establish an appropriate written contract with the provider.

(9) **Interpreter Service:** Is provided only when necessary to assist the client to derive full benefit from other rehabilitation services:

(a) **Limitation:** To be provided by the Division only when "comparable benefits" are not available;

(b) **For the Deaf and Hearing Impaired:** The Division gives preference to using interpreters certified by the National Registry of Interpreters for the Deaf and/or one who is on the approved vendor list of the State Association of the Deaf. When deemed mutually acceptable by the client and the counselor, another interpreter may be utilized;

(c) **Regional Resources:** The Deaf and Hearing Impaired Access Program may be used as a resource to both clients and staff for securing interpreters.

(10) **Other Support Services Providers:** May be selected for specific skills needed. Where provider licenses, insurance, certificates and state or local codes are indicated the Division reasonably attempts to assure that appropriate levels are met before authorizing services from the provider. (See OAR 582-080 and 582-085 for additional rules on vendor selection.)

(11) **Insurance:** Providers shall obtain and maintain insurance as required by law for that provider; additionally, where the Division is providing for services, appropriate levels of personal, professional and general liability insurance may be required, depending on the type of service. Where the client is the employer/ contractor the Division shall assist the client in verifying that proper insurance coverage is in force for those services in order that the client may be reimbursed by the Division for such contracted services as are a part of the approved plan.

(12) **Occupational Licenses, Tools and Equipment for Training and/or Employment:**

(a) May be provided when required for either extended evaluation or in other plan statuses, including post employment. The Division accepts no responsibility for client lease/rental agreements or the leased/rented items other than to reimburse the client for such prior authorized expenditures;

(b) **Repossessed items** will be used whenever appropriate and available;

(c) Except for personally prescribed items, title/ownership of a Division purchased (or jointly purchased) item is held by the Division (or jointly with the Division) until case closure when ownership may be transferred to the client for non-expendable items deemed by the Division to be needed for continued success in the client's program.

(13) **Land and/or Stationary Buildings:** Are never purchased by the Division as a service to an individual client. Existing buildings may be modified when necessary to enable an eligible client to attain a vocational or independent living plan goal. No permanent additions or weight bearing partitions are to be erected as services to individuals.

(14) **Moving Expenses:** May be provided for training or employment only when it has been determined by the Division that it is less costly and/or more beneficial than having the client commute. The Division retains the right to deny reimbursement for client opted commuting/moving costs in excess of the least costly alternative.

(15) **Rehabilitation Technology Services (RTS):** May be applied at any time during rehabilitation services to address barriers to the client's participation in evaluation, training, employment and, when appropriate, independent living:

(a) **Approved Vendors:** The Division ensures that providers used by the Division are qualified in the areas of engineering skills and/or technology required for a given service. Selected Community Rehabilitation Programs' Approvals may include RTS, when State Standards for Approvals are met for RTS;

(b) **Authorization of:** RTS is not conditioned upon unavailability of Comparable Benefits or Services, but all reasonably available comparable services shall be used before authorizing expenditure by the Division. Personal services contracts for RTS require Branch Manager approval prior to implementation.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - ORS 344.690 & ORS 344.710 - ORS 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1996(Temp), f. 2-26-96, cert. ef. 3-1-96; VRS 1-2003, f. & cert. ef. 9-23-03

582-070-0025

Applicant/Client Transportation

(1) The following definitions apply to this rule:

(a) "Approved Vendor" means a dealer who is recognized by OVRS as an approved installer/retailer of specified devices;

(b) "Qualified Mechanic" means American Standard Automotive/American Standard Engineering certified;

(c) "Qualified Vehicle Modification Evaluation" means an evaluation performed by a licensed occupational therapist;

(d) "Reasonable transportation alternatives" include, but are not limited to, car repairs to an already owned vehicle; use of mass transit or other community transportation options; a move to another area which allows access to employment, mass transit and community transportation options; family members, volunteers, paid driver/attendants, car pool or other public transportation options; or reasonable accommodations by the client's employer;

(e) "Vehicle Modification" means services involving the purchase and installation of adaptations or devices in a vehicle.

(2) It is not the policy of the Office of Vocational Rehabilitation Services (OVRS) to provide funds for individuals to lease or purchase motor vehicles that require a license to operate; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle when no other options are available to support the employment goal if:

(a) The exception is not prohibited by state or federal statute, rule or regulation; and

(b) The exception is granted only after OVRS and the client have explored all reasonable transportation alternatives; and

(c) OVRS has also made the following determinations:

(A) Purchase of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable alternative is available because any available alternatives would delay the employment plan or place the client at extreme medical risk.

(B) Available financial resources, which include, but are not limited to comparable services and benefits, Plans for Achieving Self-Support, grants, or other resources, do not meet the minimum cost of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(C) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(3) **Scope of Vehicle Modifications:**

(a) As Rehabilitation Technology, defined as necessary to address vocational barriers confronted by individuals with disabilities in the area of transportation, OVRS may not purchase the following:

(A) Modifications to a van if it would be possible to modify a sedan style automobile to meet the individual's need for transportation;

(B) Modifications to a vehicle if the individual owns or has use of another vehicle that would meet the individual's transportation needs; or

(C) Modifications to a vehicle for an individual to drive if the result of a qualified vehicle modification evaluation indicates that the individual is not capable of driving due to the individual's disability.

(b) Second or subsequent modifications must be limited to those needed to accommodate changes in the individual's medical condition.

(c) Conditions for OVRS participation in costs associated with vehicle modification include the following:

(A) The client does not own another vehicle, which would meet their transportation needs;

(B) The client has or is able to obtain a valid driver's license, if modifications for driving are made;

(C) It is planned that the client will be the primary driver of the modified vehicle, if modifications for driving are made;

(D) The vehicle must be registered in the name of the client and/or the client's parents or guardian;

(E) The proposed modification has been determined to be needed as the result of a qualified vehicle modification evaluation;

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(F) Individuals who are provided motor vehicle modification/adaptation services by OVRs shall obtain, at their own cost, insurance on such modifications, since OVRs will not correct or replace motor vehicle modifications damaged in an accident.

(d) Vehicle requirements for OVRs participation in the cost of modifications are as follows:

(A) It has been determined that other alternatives for meeting transportation needs are not available, and transportation as afforded by the affected vehicle is essential to the achievement of the Individualized Plan for Employment goal;

(B) The vehicle to be modified has been judged safe and is in reasonably good condition, as determined by a qualified mechanic;

(C) All proposed modifications are consistent with applicable vehicle safety laws;

(D) OVRs will not provide modifications for a vehicle that OVRs has previously modified and which has been damaged in an accident, when the client has failed to adequately insure the vehicle and modifications;

(E) OVRs will not provide such optional equipment as may generally be purchased through an automobile dealer at the time the vehicle is purchased – including radio, air conditioning, automatic transmission, power brakes, and power windows unless such equipment is required as a result of the client's disability and is categorized in the Occupational Therapists driver's evaluation as necessary to the modification of the vehicle;

(F) OVRs assumes no responsibility for general maintenance or repair of modified vehicles;

(G) OVRs assumes no warranty responsibility for modifications, equipment, or parts. The installer or supplier may warrant them.

(e) OVRs conditions for vendor selection are as follows:

(A) Vehicle modifications shall be purchased from vendors or dealers who are listed and on file with OVRs as an approved vendor of the devices;

(B) Such purchases will be made in accordance with State procurement regulations and OVRs purchase policy and procedures.

(4) If the client will be the motor vehicle driver, OVRs will require a qualified professional Occupational Therapist evaluation, and the Occupational Therapist evaluation must conclude that the client can get or maintain a Drivers License through the State Department of Motor Vehicles.

(5) On the rare occasion of a second or subsequent motor vehicle modification or purchase, the service can only be authorized after a determination by the vocational rehabilitation counselor that confirms the client's failure to comply with the prior agreement to maintain, repair and replace the previous modifications or motor vehicle was for good cause based on:

(a) Disability-related expenses exceeding the individual's financial ability to provide for the necessary maintenance, repair or replacement of the previous modification or motor vehicle; or

(b) Employment status changed which resulted in the individual's inability to maintain, repair or replace the previous modification or vehicle; or

(c) Other unavoidable financial obligations, as documented by the OVRs field counselor, that impaired the individual's ability to maintain, repair or replace the previous modification or vehicle.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - ORS 344.690 & ORS 344.710 - ORS 344.730

Hist.: VRD 2-1996, f. & cert. ef. 8-28-96; VRS 1-2003, f. & cert. ef. 9-23-03

Department of Justice
Chapter 137

Adm. Order No.: DOJ 9-2003

Filed with Sec. of State: 9-29-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Amended: 137-050-0320, 137-050-0330, 137-050-0335, 137-050-0340, 137-050-0350, 137-050-0360, 137-050-0405, 137-050-0410, 137-050-0450, 137-050-0455, 137-050-0475

Rules Repealed: 137-050-0335(T)

Subject: The amendments to OAR 137-050-0320 correct grammatical errors and add, as well as, modify definitions. The new definition of "Survivors' and Dependents' Educational Assistance" includes the new provisions as passed by the legislature in Oregon Laws 2003 chapter 572 § section 6, which allows all Veterans' benefits received by a child to be considered when calculating a child support obligation, including Survivors' and Dependents' Educa-

tional Assistance under 38 USC chapter 35. "Split custody" is defined for use by practitioners when calculating parenting time. Per public comments, the word "parents" replaces the phrase "mother and the father" in the definition of "joint child," in recognition of the variety of family units today. In the definition of "low income adjustment," the word "modified" replaces "adjusted," as it is the correct type of gross income to use when applying this adjustment. In the "parenting time" definition, the phrase "an existing" is replaced by "a current" in recognition of the situation where parents have an agreement for parenting time which reflects a parenting time arrangement more current than a previous court order for parenting time.

The amendments to OAR 137-050-0330 correct a grammatical error and remove the word "apportioned" to allow Parent B to receive credit for any type of Veterans' benefits received by Parent A as a representative payee for a joint child due to Parent B's disability or retirement.

The amendments to OAR 137-050-0335 clarify which set of child support guidelines to use when calculating past support. Temporary Rule 137-050-0335, effective June 5, 2003, is repealed.

The amendments to OAR 137-050-0340 correct grammatical errors.

The amendments to OAR 137-050-0350 correct grammatical errors and changes the term "hearings officer" to "administrative law judge" due to a name change prescribed by law.

The amendment to OAR 137-050-0360 and OAR 137-050-0475 changes the reference to OAR 461-200-3300 to the recently amended citation, OAR 137-055-3300.

The amendments to OAR 137-050-0405 correct grammatical errors, remove "apportioned" from the title and make further changes as prescribed by the legislature in Oregon Laws 2003 chapter 572 § 6. The legislative changes provide that Survivors' and Dependents' Educational Assistance payments will now be included in the calculation of gross income for either parent and the amount which may be subtracted from Parent B's net child support obligation.

The amendments to OAR 137-050-0410 are to correct grammatical errors and adopt the requirements as set out in the National Medical Support Notice legislation, as passed in Oregon Laws 2003 chapter 637 § 3.

The amendments to OAR 137-050-0450 broaden the allowances for calculating parenting time. One such amendment allows for the calculation of parenting time when parents have split custody of the joint children, regardless of whether or not a current written parenting time agreement or court order providing for the parenting time exists. The amendment which adds "current" to "written parenting time agreement" allows parents to calculate time spent with the child(ren) using an existing parenting time arrangement, even if a previous court order providing for parenting time exists.

The amendments to OAR 137-050-0455 correct the amount of overall parenting time that will be calculated. The amendments remove redundant phraseology and change the phrase "more than 20 percent" to "20 percent or greater for each parent" in order to correctly correspond to the rule.

Rules Coordinator: Shawn Irish—(503) 986-6240

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 Veterans' 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 Veterans' benefits is determined by the Veterans Administration and is governed by 38 CFR 3.450 through 3.458.

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(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 parents 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 modified 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 a current 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.

(15) "Split custody" means that each parent in a two parent calculation has primary physical custody of at least one of the joint children.

(16) "Survivors' and Dependents' Educational Assistance" are funds disbursed by the Veterans Administration under 38 USC chapter 35, to the child or his or her representative payee.

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

Stat. Auth.: ORS 180.340 & ORS 25.270 – ORS 25.290 & OL 2003, ch 572 § 6

Stats. Implemented: ORS 25.270 – ORS 25.290 & ORS 107.135

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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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 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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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) Whenever possible, the support obligation for a time period prior to the effective date of any new, amended, or repealed rule included in this series shall be calculated using the guidelines in effect for that time period.

(3) Rule changes do not constitute a substantial change in circumstances for purposes of modifying a child support order.

(4) As used in this rule, "pending" means any matter that has been initiated before the effective date of a rule change but requires amendment or hearing before a final judgment can be entered.

Stat. Auth.: ORS 180.340 & ORS 25.270 – ORS 25.290

Stats. Implemented: ORS 25.270 – ORS 25.290

Hist.: JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 5-2003(Temp), f. & cert. ef. 6-5-03 thru 12-2-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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

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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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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 the administrative law judge 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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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 137-055-3300.

(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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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 Veterans' benefits received by the child or on behalf of the child may be added to the gross income of the parent for whom the disability or retirement benefit was paid.

(2) The amount of the monthly Survivors' and Dependents' Educational Assistance received by the child or on behalf of the child shall be added to the gross income of the parent for whom the disability or retirement benefit was paid.

(3) If the Social Security or apportioned Veterans' benefits are paid on behalf of Parent B, and are received by Parent A as a representative payee for the child or by the child attending school, as defined in ORS 107.108, then the amount of the benefits may also be subtracted from Parent B's net child support obligation as calculated pursuant to OAR 137-050-0330.

(4) If the Survivors' and Dependents' Educational Assistance is paid on behalf of Parent B, and is received by Parent A as a representative payee for the child or by the child attending school, as defined in ORS 107.108, then the amount of the assistance shall also be subtracted from Parent B's net child support obligation as calculated pursuant to OAR 137-050-0330.

Stat. Auth.: ORS 180.340, ORS 25.270 – ORS 25.290

Stats. Implemented: ORS 25.270 – ORS 25.290 & ORS 107.135

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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

137-050-0410

Health Care Coverage

(1) The child support obligation shall be adjusted for health care coverage provided for the joint child if health care coverage:

(a) Is ordered pursuant to Oregon Laws 2003, chapter 637, section 3 and OAR 137-055-3340, and the child is or will be enrolled upon finalization of the order to provide health care coverage and the cost of the health care coverage and the cost of health care coverage is determinable at the time the order is entered;

(b) Is not ordered 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.

(2) Determine the cost to the parent of carrying health care coverage for only the parent's joint child(ren). 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 child(ren) only.

(3) 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 health care coverage premiums for that child provided by the obligated parent may be allowed with respect to that parent.

(4) The cost of providing health care coverage to insure the joint child(ren) and incurred by a parent's spouse or domestic partner may be attributed to the parent.

(5) 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 25.270 – ORS 25.290, ORS 180.340 & OL 2003, ch 637 § 3

Stats. Implemented: ORS 25.270 – ORS 25.290 & OL 2003, ch 637 § 3

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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

137-050-0450

Parenting Time

(1) If there is a current written parenting time agreement or court order providing for parenting time and/or the parents have split custody, 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) If the parents have split custody but no current written parenting time agreement or court order providing for parenting time, each parent shall be attributed 365 days for the child(ren) in the parent's physical custody.

(c) Notwithstanding the calculation provided in (1)(a) and (1)(b), 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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

137-050-0455

Parenting Time Credit

(1) This rule shall apply when the overall parenting time calculated pursuant to OAR 137-050-0450 is 20 percent or greater for each parent.

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(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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

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 137-055-3300.

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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03

Adm. Order No.: DOJ 10-2003

Filed with Sec. of State: 9-29-2003

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Rules Adopted: 137-055-3410, 137-055-6200

Rules Repealed: 137-055-0595, 137-055-1020(T), 137-055-1040(T), 137-055-1060(T), 137-055-1070(T), 137-055-1080(T), 137-055-1100(T), 137-055-1120(T), 137-055-1140(T), 137-055-1160(T), 137-055-1180(T), 137-055-1200(T), 137-055-1320(T), 137-055-1340(T), 137-055-1360(T), 137-055-1500(T), 137-055-1600(T), 137-055-2020(T), 137-055-2040(T), 137-055-2060(T), 137-055-2080(T), 137-055-2120(T), 137-055-2140(T), 137-055-

2160(T), 137-055-2180(T), 137-055-2320(T), 137-055-2340(T), 137-055-2360(T), 137-055-2380(T), 137-055-3020(T), 137-055-3040(T), 137-055-3060(T), 137-055-3080(T), 137-055-3100(T), 137-055-3120(T), 137-055-3140(T), 137-055-3220(T), 137-055-3240(T), 137-055-3260(T), 137-055-3280(T), 137-055-3290(T), 137-055-3300(T), 137-055-3340(T), 137-055-3360(T), 137-055-3400(T), 137-055-3420(T), 137-055-3440(T), 137-055-3460(T), 137-055-3480(T), 137-055-3490(T), 137-055-3500(T), 137-055-3620(T), 137-055-3640(T), 137-055-4040(T), 137-055-4060(T), 137-055-4080(T), 137-055-4100(T), 137-055-4120(T), 137-055-4130(T), 137-055-4140(T), 137-055-4160(T), 137-055-4180(T), 137-055-4200(T), 137-055-4220(T), 137-055-4240(T), 137-055-4260(T), 137-055-4280(T), 137-055-4300(T), 137-055-4320(T), 137-055-4340(T), 137-055-4360(T), 137-055-4420(T), 137-055-4440(T), 137-055-4460(T), 137-055-4500(T), 137-055-4520(T), 137-055-4540(T), 137-055-4560(T), 137-055-4620(T), 137-055-4640(T), 137-055-5020(T), 137-055-5040(T), 137-055-5060(T), 137-055-5080(T), 137-055-5110(T), 137-055-5120(T), 137-055-5125(T), 137-055-5220(T), 137-055-5240(T), 137-055-5400(T), 137-055-5420(T), 137-055-5520(T), 137-055-6020(T), 137-055-6025(T), 137-055-6040(T), 137-055-6100(T), 137-055-6110(T), 137-055-6120(T), 137-055-6220(T), 137-055-6240(T), 137-055-6260(T), 137-055-6280(T), 137-055-7020(T), 137-055-7040(T), 137-055-7060(T), 137-055-7080(T), 137-055-7100(T), 137-055-7120(T), 137-055-7140(T), 137-055-7160(T), 137-055-7180(T)

Rules Ren. & Amended: 137-050-0300 to 137-055-2170, 137-050-0605 to 137-055-4130, 461-200-1020 to 137-055-1020, 461-200-1040 to 137-055-1040, 461-200-1060 to 137-055-1060, 461-200-1070 to 137-055-1070, 461-200-1080 to 137-055-1080, 461-200-1100 to 137-055-1100, 461-200-1120 to 137-055-1120, 461-200-1140 to 137-055-1140, 461-200-1160 to 137-055-1160, 461-200-1180 to 137-055-1180, 461-200-1200 to 137-055-1200, 461-200-1320 to 137-055-1320, 461-200-1340 to 137-055-1340, 461-200-1360 to 137-055-1360, 461-200-1500 to 137-055-1500, 461-200-1600 to 137-055-1600, 461-200-2020 to 137-055-2020, 461-200-2040 to 137-055-2040, 461-200-2060 to 137-055-2060, 461-200-2080 to 137-055-2080, 461-200-2120 to 137-055-2120, 461-200-2140 to 137-055-2140, 461-200-2160 to 137-055-2160, 461-200-2180 to 137-055-2180, 461-200-2320 to 137-055-2320, 461-200-2340 to 137-055-2340, 461-200-2360 to 137-055-2360, 461-200-2380 to 137-055-2380, 461-200-3020 to 137-055-3020, 461-200-3040 to 137-055-3040, 461-200-3060 to 137-055-3060, 461-200-3080 to 137-055-3080, 461-200-3100 to 137-055-3100, 461-200-3120 to 137-055-3120, 461-200-3140 to 137-055-3140, 461-200-3220 to 137-055-3220, 461-200-3240 to 137-055-3240, 461-200-3260 to 137-055-3260, 461-200-3280 to 137-055-3280, 461-200-3290 to 137-055-3290, 461-200-3300 to 137-055-3300, 461-200-3340 to 137-055-3340, 461-200-3360 to 137-055-3360, 461-200-3400 to 137-055-3400, 461-200-3420 to 137-055-3420, 461-200-3440 to 137-055-3440, 461-200-3460 to 137-055-3460, 461-200-3480 to 137-055-3480, 461-200-3490 to 137-055-3490, 461-200-3500 to 137-055-3500, 461-200-3620 to 137-055-3620, 461-200-3640 to 137-055-3640, 461-200-4040 to 137-055-4040, 461-200-4060 to 137-055-4060, 461-200-4080 to 137-055-4080, 461-200-4100 to 137-055-4100, 461-200-4120 to 137-055-4120, 461-200-4140 to 137-055-4140, 461-200-4160 to 137-055-4160, 461-200-4180 to 137-055-4180, 461-200-4200 to 137-055-4200, 461-200-4220 to 137-055-4220, 461-200-4240 to 137-055-4240, 461-200-4260 to 137-055-4260, 461-200-4280 to 137-055-4280, 461-200-4300 to 137-055-4300, 461-200-4320 to 137-055-4320, 461-200-4340 to 137-055-4340, 461-200-4360 to 137-055-4360, 461-200-4420 to 137-055-4420, 461-200-4440 to 137-055-4440, 461-200-4460 to 137-055-4460, 461-200-4500 to 137-055-4500, 461-200-4520 to 137-055-4520, 461-200-4540 to 137-055-4540, 461-200-4560 to 137-055-4560, 461-200-4620 to 137-055-4620, 461-200-4640 to 137-055-4640, 461-200-5020 to 137-055-5020, 461-200-5040 to 137-055-5040, 461-200-5060 to 137-055-5060, 461-200-5080 to 137-055-5080, 461-200-5110 to 137-055-5110,

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461-200-5120 to 137-055-5120, 461-200-5125 to 137-055-5125, 461-200-5220 to 137-055-5220, 461-200-5240 to 137-055-5240, 461-200-5400 to 137-055-5400, 461-200-5420 to 137-055-5420, 461-200-5520 to 137-055-5520, 461-200-6020 to 137-055-6020, 461-200-6025 to 137-055-6025, 461-200-6040 to 137-055-6040, 461-200-6100 to 137-055-6100, 461-200-6110 to 137-055-6110, 461-200-6120 to 137-055-6120, 461-200-6220 to 137-055-6220, 461-200-6240 to 137-055-6240, 461-200-6260 to 137-055-6260, 461-200-6280 to 137-055-6280, 461-200-7020 to 137-055-7020, 461-200-7040 to 137-055-7040, 461-200-7060 to 137-055-7060, 461-200-7080 to 137-055-7080, 461-200-7100 to 137-055-7100, 461-200-7120 to 137-055-7120, 461-200-7140 to 137-055-7140, 461-200-7160 to 137-055-7160, 461-200-7180 to 137-055-7180

Subject: The Division is finalizing the renumbering of all rules in OAR Chapter 461, Division 200 pertaining to the Oregon Child Support Program and move these rules into a new OAR agency and division which is OAR Chapter 137, Division 055. Oregon Laws 2003, chapter 73, section 2 consolidates the Child Support Program Director's Office of the Department of Human Services (DHS) to the Department of Justice (DOJ), Division of Child Support. The law transfers rulemaking authority for the Child Support Program from DHS to DOJ effective July 1, 2003.

In doing this renumbering, the Division also is amending the text of these rules to the following extent.

1) Renumbering cross-references to these rules that are contained in other rules in OAR Chapter 461, Division 200, to correspond to the renumbering being assigned under the proposed new OAR Chapter 137, Division 055.

2) Updating obsolete references to organizational entities that perform functions under these rules and changing the name of an agency by reason of a name change prescribed by law.

3) Correcting statutory references.

4) Correcting spelling and correcting grammatical mistakes in a manner that does not alter the scope, application or meaning of the rule.

5) Updating terminology for consistency among the rules.

In addition to the renumbering and technical rule amendments, the Division also has the following rule amendments:

OAR 137-055-3410 is adopted to set out when the Child Support Program will establish a support order rather than issue a modification when the existing order does not order child support.

OAR 137-055-6200 is adopted to set out what the Child Support Program will do when an error is identified on a support case which requires adjusting the arrears on the case.

OAR 137-055-1020 is amended to bring child support definitions up-to-date.

OAR 137-055-1340 and 137-055-1360 are amended to remove references to the State Parent Locator Service in order to be in compliance with federal law and regulation.

OAR 137-055-2170 is amended to clarify that the administrator has the authority to represent the agency in certain administrative hearings and lists the types of hearings in which the administrator is authorized to represent the agency.

OAR 137-055-3340, OAR 137-055-4620 and 137-055-4640 are amended to implement Oregon Laws 2003, chapter 637, which is regarding the establishment of orders to provide satisfactory health care coverage and the enforcement of orders with include a provision for health care coverage by way of issuing a National Medical Support Notice.

OAR 137-055-4320 is amended to bring the rule on state tax refund offset for child support in line with current process.

OAR 137-055-5520 is amended to make the rule consistent with the recently amended child support guidelines by giving dollar for dollar credit against child support arrears up to the amount of the arrears on the case. Additionally, the type of Veterans' benefits for which credit may be given is broadened pursuant to policy guidance by the legislature in Oregon Laws 2003, chapter 572. This change allows all types of Veterans' benefits to be considered, including Sur-

vivors' and Dependents' Educational Assistance under 38 USC chapter 35.

OAR 137-055-6020 is amended to specify distribution of support payments assigned to the state.

OAR 137-050-0595 is repealed because the form to be prescribed by the administrator in a modification pursuant to ORS 416.425 is addressed by OAR 137-055-3420.

Rules Coordinator: Shawn Irish—(503) 986-6240

137-055-1020

Child Support Program Definitions

The following definitions shall apply to OAR 137-055-1000 through 137-055-9999, inclusive:

(1) Unless otherwise stated, "administrator" means either the Administrator of the Division of Child Support of the Department of Justice or a district attorney, or the administrator's or a district attorney's authorized representative.

(2) "Assignee" means the Department of Human Services (DHS), the Division of Child Support, Oregon Youth Authority (OYA) or equivalent agencies in any other state or Tribe to which support rights for a person are assigned.

(3) "Assignment" or "Assigned" means all or a portion of support payments owed to a person will be retained by an assignee if such person or beneficiary of such person is receiving assistance in the form of Temporary Assistance for Needy Families (TANF) cash assistance, foster care, or OYA services. Support payments will be distributed per OAR 137-055-6020. There is also an assignment of rights to medical support for reimbursement of health care costs for any person who has been granted medical assistance.

(4) "Beneficiary" means any child, spouse or former spouse for whom an obligor has been ordered (or has agreed) to pay support, under a court order, an administrative order, or a voluntary agreement.

(5) "Child Support Program" or "CSP" is the program authorized under title IV-D of the Social Security Act to provide child support enforcement services required by federal and state law. The CSP director in Oregon is the Administrator of the Division of Child Support. The CSP includes the Division of Child Support and those district attorneys that contract to provide services described in ORS 25.080.

(6) "Court Order" means any judgment, decree, or order of any court, or any administrative order, requiring an obligor to provide child or spousal and/or health care coverage, for specified beneficiaries.

(7) "Court-ordered Amount", or "COA", means the periodic payment amount, usually monthly, ordered by administrative process or by a court for support. The COA can be either the amount for each beneficiary on a support case, or the total amount for all beneficiaries in a single support case.

(8) "Department of Human Services", or "DHS", is the state's health and human services agency. DHS is responsible for public assistance programs such as: Temporary Assistance for Needy Families (TANF), Food Stamps, child-protective services, foster care and adoption programs, the Oregon Health Plan and Medicaid.

(9) "District Attorney", or "DA", means the district attorney for an Oregon county. In most Oregon counties, the DA is responsible for providing support enforcement services, when requested, on all support cases where no support is assigned to the state.

(10) "Division of Child Support", or "DCS", is the Division of Oregon's Department of Justice that is responsible for:

(a) Establishing paternity, obtaining judgments for arrears, and for establishing and enforcing support obligations, on behalf of all children who:

(A) Are receiving or have formerly received TANF cash assistance, foster care, or OYA services, or who have support assigned to the State of Oregon;

(B) Are receiving TANF, or who have support assigned to another state, in cases where an obligor or alleged father resides or works in Oregon; or

(C) Are under the enforcement jurisdiction of an Oregon county that has contracted its support enforcement responsibilities to DCS, in lieu of having the county District Attorney perform these responsibilities.

(b) Accounting and distribution of child support payments as the state disbursement unit.

(11) "Guidelines" refers to the guidelines, the formula, and related provisions established by DCS, in Oregon Administrative Rules 137-050-0320 through 137-050-0490, for determining child support award amounts in Oregon.

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(12) "Income Withholding" means a judicial or administrative process under which an obligor's employer, trustee, or other provider of income is ordered to withhold a specified percentage, or a specified amount, from each and every paycheck or benefit payment of an obligor, for the purpose of paying current and/or past-due support. Income withholding is distinguished from garnishment as follows: income withholding will occur continuously under a single order and is not subject to claim of exemption; a garnishment occurs for only a limited duration under a single writ and is subject to certain exemptions provided by law.

(13) "IV-A" refers to Title IV-A of the Social Security Act which is the specific provision that gives grants to states and Tribes for aid and services to needy families with dependent children (see "TANF"). Applicants for assistance from IV-A programs are automatically referred to their state IV-D agency in order to identify and locate the non-custodial parent, establish paternity and/or a child support order, and/or obtain child support payments.

(14) "IV-D" refers to Title IV-D of the Social Security Act which requires each state to create a program to locate non-custodial parents, establish paternity, establish and enforce child support obligations, and collect and distribute support payments. Recipients of IV-A (TANF), IV-E (foster care) and Oregon Youth Authority (OYA) assistance are referred to their state's IV-D child support program. States must also accept applications from families who do not receive assistance, if requested, to assist in collection of child support. Title IV-D also established the Federal Office of Child Support Enforcement.

(15) "IV-E" refers to Title IV-E of the Social Security Act which established a Federal-State program known as Foster Care that provides financial support to a person, family, or institution that is raising a child or children that is not their own. The funding for IV-E Foster Care programs is primarily from Federal sources.

(16) "Obligee" means any person to whom an obligor has been ordered (or has agreed) to pay child support, spousal support, alimony, and/or medical support, under an administrative order, court order, or voluntary agreement. The obligee is usually the custodial parent, or other designated person, having legal or physical custody of the beneficiary children under a support order.

(17) "Obligor" means any person who is required (or has agreed) to pay child support, spousal support, alimony, and/or medical support, under an administrative order, court order, or voluntary agreement. The obligor is usually the non-custodial parent of the beneficiary children under a support order.

(18) "Oregon Youth Authority", or "OYA", is the State of Oregon agency responsible for the supervision, management, and administration of state parole and probation services, community out-of-home placements, and youth correction facilities for youth offenders, and other functions related to state programs for youth corrections.

(19) "Support" means cash payments, health care coverage, or other benefits that a person has been ordered by a court or by administrative process, or has voluntarily agreed, to provide for the benefit and maintenance of another person.

(20) "TANF" means "Temporary Assistance for Needy Families", a public assistance program which provides case management and cash assistance to low-income families with minor children. It is designed to promote personal responsibility and accountability for parents. The goal of the program is to reduce the number of families living in poverty through employment services and community resources. Title IV-A of the Social Security Act is the specific provision that gives grants to states and Tribes for aid and services to needy families with dependent children.

(21) "Title XIX", popularly known as Medicaid, refers to Title XIX of the Social Security Act which mandates health care coverage by states for TANF recipients and certain other means-tested categories of persons. Within broad national guidelines which the federal government provides, each state: establishes its own eligibility standards; determines the type, amount, duration, and scope of services; sets the rate of payment for services; and administers its own program.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003
Stats. Implemented: ORS 25.080

Hist.: AFS 10-1990, f. 3-14-90, cert. ef. 4-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0001; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1020

137-055-1040

"Party Status" in Court and Administrative Proceedings

(1) In any proceeding to establish, modify or enforce a paternity or support obligation initiated by the administrator (as defined in OAR 137-055-1020), the administrator represents only the interests of the state.

(2) In any action taken under ORS 25.080, the State of Oregon, the obligor, and the obligee are parties.

Stat. Auth.: ORS 25.080 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 23-1992, f. 8-14-92, cert. ef. 9-1-92; AFS 3-1994, f. & cert. ef. 2-1-94; AFS 18-1994, f. 8-25-94, cert. ef. 9-1-94; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0065; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1040

137-055-1060

Uniform Application for Child Support Enforcement Services

(1) The administrator shall provide a standard application form to any person requesting child support enforcement services. An explanatory cover sheet shall be attached to the application. Except for the application form and cover sheet, the form required under section (3) of this rule, and any statements necessary to respond to inquiries about these forms, no other written or oral statements concerning an applicant's qualification for services nor any contract for service shall be offered.

(2) The application form shall:

(a) Contain a statement that the applicant is requesting child support enforcement services including enforcement of health provisions;

(b) Require the applicant's signature and date of application.

(3) The administrator shall provide a form to applicants for child support enforcement services, which includes the following information:

(a) The applicant's rights and responsibilities;

(b) An explanation of enforcement activities for which fees are charged including the application fee referred to in section (5) of this rule;

(c) Policies on cost recovery;

(d) Policies on distribution of collections.

(4) The standardized application form and cover sheet, and the form required under section (3) of this rule, shall be readily available to the public in each Child Support Program (CSP) office:

(a) The administrator shall provide the standardized application form and cover sheet, and the form required under section (3) of this rule, upon request to any individual who requests services in person;

(b) When a request for child support enforcement services is made in writing or by telephone, the administrator shall send the individual the standardized application form and cover sheet, and the form required under section (3) of this rule, within five working days from the date the request is made.

(5) The administrator shall accept an application as it is filed, on the day it is received.

(6) The administrator shall create a case on the computerized system within two working days of receipt of the application providing circumstances beyond the control of the administrator do not occur.

(7) The administrator shall provide the information required under section (3) of this rule:

(a) If the requesting individual or a beneficiary of such person is not receiving assistance in the form of TANF cash assistance, Medicaid, foster care or Oregon Youth Authority services, along with the standard application form;

(b) If the individual or beneficiary of such person receives assistance in the form of TANF cash assistance, Medicaid, foster care or Oregon Youth Authority services, within five working days of referral from the Department of Human Services or the Oregon Youth Authority.

(8) Once an application for child support enforcement services is accepted, if necessary for establishment and/or enforcement purposes, the administrator shall solicit additional relevant information by means of a form approved by the CSP.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 16-1994, f. 8-4-94, cert. ef. 12-1-94; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0043; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1060

137-055-1070

Provision of Services

(1) For the purposes of this rule, the following definitions apply:

(a) "Full services case" means a case in which the full range of support enforcement services required under ORS 25.080(4) are provided;

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(b) "Limited services case" means a case in which the provisions of ORS 25.080 do not apply and one or more collection, accounting, distribution or enforcement services are provided pursuant to state or federal law.

(2) When any Oregon court order for child and/or spousal support is received, the administrator shall:

(a) If the order requires payment of child support or child and spousal support and seeks collection, accounting, distribution and enforcement services:

(A) Create a full services case on the Child Support Enforcement Automated System (CSEAS) if one does not already exist;

(B) Initiate appropriate enforcement action; and

(C) Send the parties the information required in OAR 137-055-1060(4);

(b) If the order requires payment of spousal support only and seeks collection, accounting, distribution and enforcement services:

(A) Create a limited services case on the CSEAS if one does not already exist;

(B) If applicable, add arrears under ORS 25.015 or establish arrears under ORS 25.167; and

(C) Initiate income withholding under ORS 25.372 to 25.427.

(c) If the order is silent, unclear or contradictory on the services to be provided and no application or other written request for support enforcement services has been received:

(A) Create an information only case on the CSEAS for the state case registry if one does not already exist; and

(B) Send the parties a letter explaining that no services will be provided and why. The letter must include a statement that the obligor or obligee may apply for support enforcement services at any time if the order includes a provision for child support.

(d) If the order seeks only payment through the Department of Justice and no application or other written request for support enforcement services has been received:

(A) Create an information only case on the CSEAS for the state case registry, if one does not already exist, to receive and distribute payments in accordance with OAR 137-055-6020; and

(B) Send the parties a letter explaining that the program will only provide distribution of support payments and why. The letter must include a statement that the obligor or obligee may apply for support enforcement services at any time if the order includes a provision for child support.

(e) If the provisions of subsection (c) or (d) apply and a party subsequently completes an application or other written request for support enforcement services, the administrator shall process the application or request in accordance with OAR 137-055-1060.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.020, ORS 25.080, 25.140 & ORS 25.164

Hist.: AFS 20-2002, f. 12-20-02 cert. ef. 1-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1070; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1070

137-055-1080

Application Fee for Non-Assistance Support Enforcement Services

(1) The Oregon Child Support Program shall pay to the federal Department of Health and Human Services a \$1 application fee on behalf of each applicant who applies for support enforcement services after October 1, 1985, and whose family is not receiving assistance in the form of TANF cash assistance, Medicaid, foster care or Oregon Youth Authority services.

(2) The Division of Child Support (DCS) shall recover the fee payment from each applicant by deducting it from any unassigned support received by DCS.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 56-1985(Temp), f. & ef. 10-1-85; AFS 2-1986, f. & ef. 1-17-86; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0048; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0045; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1080

137-055-1100

Continuation of Service

(1) When a family's assistance grant is closed, support enforcement services shall automatically be continued. The Division of Child Support (DCS) shall notify the support obligee, in writing, of the services to be provided. DCS will notify the obligee that subject to the obligor's right to request services:

(a) An obligee may at any time request that support enforcement services no longer be provided. If the obligee so requests and case closure procedures pursuant to OAR 137-055-1120 have been completed, all support

enforcement services on behalf of the obligee shall be discontinued. However, except as provided in section (2) of this rule, if an order has already been established, DCS shall continue efforts to collect arrears assigned to the state. DCS shall apply any collections received against the assigned arrears until this amount has been collected.

(b) An obligee may also request under section (2) of this rule that support enforcement services no longer be provided for either the obligee or the state.

(2) If an obligee believes that physical or emotional harm to the family may result if support enforcement services are provided, the obligee may request that the administrator discontinue all activity against the obligor. Upon such a request by an obligee, the administrator shall immediately suspend all activity on the case, add good cause case coding and send a Client Safety Packet on Good Cause to the obligee requesting a response within 30 days.

(a) If the obligee returns the completed and signed Good Cause portion of the Client Safety Packet on Good Cause, the administrator shall proceed with case closure pursuant to OAR 137-055-1120(1)(i), and DCS shall satisfy any and all permanently assigned arrears as defined in OAR 137-055-6020(1)(g).

(b) If the obligee returns the completed and signed Claim of Risk portion of the Client Safety Packet on Good Cause, the administrator shall remove the good cause case coding and make a finding and order for nondisclosure of information pursuant to ORS 25.020 and OAR 137-055-1160.

(c) If the obligee returns the completed and signed Address of Record portion of the Client Safety Packet on Good Cause, the administrator shall remove the good cause case coding and update the child support case record appropriately.

(d) If the obligee does not send a reply to the Client Safety Packet on Good Cause within 30 days, the administrator shall proceed with case closure pursuant to OAR 137-055-1120(1)(i), and DCS shall satisfy any and all permanently assigned arrears as defined in OAR 137-055-6020(1)(g).

(3) If a case has been closed pursuant to this rule, an obligee may at any time request the child support case be reopened for services by completing a new application for services. If an application for services is received, arrears may be reestablished pursuant to OAR 137-055-3240, except for permanently assigned arrears which have been satisfied or which accrued to the state prior to the reapplication for services.

Stat. Auth.: ORS 25.080 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 18.400, ORS 25.020, & ORS 25.080

Hist.: AFS 34-1986(Temp), f. & ef. 4-14-86; AFS 65-1986, f. & ef. 9-19-86; AFS 28-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0054; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0055; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1100

137-055-1120

Case Closure

(1) The administrator, may close a child support case, whenever the case meets at least one of the following criteria for case closure:

(a) There is no longer a current support order, and arrears are under \$500 and there are no reasonable expectations for collection or the arrears are uncollectible under state law;

(b) The non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;

(c) Paternity cannot be established because:

(A) A parentage test, or a court or administrative process, has excluded the putative father and no other putative father can be identified;

(B) In a case involving incest or forcible rape, or where legal proceedings for adoption are pending, the Department of Human Services (DHS) or the administrator has determined that it would not be in the best interests of the child to establish paternity; or

(C) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the administrator with the recipient of services;

(d) The location of the non-custodial parent is unknown, and the state parent locator service has made regular attempts using multiple sources, all of which have been unsuccessful, to locate the non-custodial parent:

(A) Over a three-year period when there is sufficient information to initiate an automated locate effort; or

(B) Over a one-year period when there is not sufficient information to initiate an automated locate effort;

(e) When paternity is not at issue and the non-custodial parent cannot pay support for the duration of the child's minority because the parent is both:

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(A) Institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential; and

(B) Without available income or assets which could be levied or attached for support;

(f) The non-custodial parent:

(A) Is a citizen of, and lives in, a foreign country;

(B) Does not work for the Federal government or for a company or state with headquarters in or offices in the United States;

(C) Has no reachable income or assets in the United States; and

(D) Oregon has been unable to establish reciprocity with the country;

(g) The state parent locator service has provided location-only services based upon a request under 45 CFR 302.35(c)(3);

(h) The custodial parent, or applicant for services, requests closure, and:

(A) There is no assignment to the state of medical support; and

(B) There is no assignment of arrears that have accrued on the case;

(i) DHS or the administrator pursuant to OAR 137-055-1100 (2), has made a finding of good cause or other exceptions to cooperation and has determined that support enforcement may not proceed without risk or harm to the child or caretaker;

(j) In a non-TANF case (excluding a Medicaid case), the administrator is unable to contact the custodial parent, or applicant for services, within 60 calendar days, despite an attempt of at least one letter sent by first class mail to the last known address;

(k) In a non-TANF case, the administrator documents the circumstances of non-cooperation by the custodial parent, or applicant for services, and an action by the custodial parent, or applicant for services, is essential for the next step in providing enforcement services; or

(l) The administrator documents failure by the initiating state to take an action which is essential for the next step in providing services.

(2)(a)(A) If the administrator elects to close a case pursuant to section (1)(a), (1)(c), (1)(e), (1)(f), (1)(h) or (1)(j) through (1)(l) of this rule, the administrator must notify all parties to the case in writing at least 60 calendar days prior to closure of the case of the intent to close the case.

(B) If the administrator elects to close a case pursuant to section (1)(b) or (1)(d) of this rule, the administrator:

(i) Shall notify the obligee in writing at least 60 days prior to closure of the case of the intent to close the case; and

(ii) Is not required to notify the obligor of the intent to close the case.

(C) If the administrator elects to close a case pursuant to section (1)(i) of this rule, the administrator:

(i) Shall notify the obligee in writing at least 60 days prior to closure of the case of the intent to close the case; and

(ii) Shall not notify the obligor of the intent to close the case.

(D) If the administrator elects to close a case pursuant to section (1)(g) of this rule, the administrator is not required to notify either obligee or obligor of the intent to close the case.

(b) The 60-day time frame in subsection (a)(A) of this section is independent of the 60-day calendar time frame in subsection (1)(j).

(c) The administrator will document the notice of case closure by entering a narrative line, or lines, on the child support computer system and will include the date of the notice.

(d) The content of the notice in subsection (a) of this section shall include, but is not limited to, the specific reason for closure, actions a party can take to prevent closure, and a statement that an individual may reapply for services at any time.

(3) Notwithstanding section (2)(a) of this rule, a case may be closed immediately under section (1)(h) of this rule if:

(a) All parties agree to waive the notice of intent to close and the 60-day objection period when the notice of intent to close has not yet been sent; or

(b) All parties agree to waive the remainder of the 60-day objection period when the notice of intent to close has already been sent.

(4) The administrator must keep a case open if, in response to the notice sent pursuant to section (2)(a) of this rule, a party:

(a) Supplies information which could lead to the establishment of paternity or of a support order, or enforcement of an order;

(b) Reestablishes contact with the administrator, in cases where the administrator proposed to close the case under subsection (1)(j) of this rule; or

(c) Completes an application for services.

(5) A party may request at a later date that the case be reopened if there is a change in circumstances that could lead to the establishment of

paternity or a support order, or enforcement of an order, by completing a new application for services.

(6) The administrator will document the justification for case closure by entering a narrative line or lines on the child support computer system in sufficient detail to communicate the basis for the case closure.

Stat. Auth.: ORS 25.080 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 25.080

Hist.: AFS 35-1986(Temp), f. & ef. 4-14-86; AFS 66-1986, f. & ef. 9-19-86; AFS 27-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-0350-055; AFS 15-1993, f. 8-13-93, cert. ef. 8-15-93; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0050; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1120

137-055-1140

Confidentiality of Records in the Child Support Program

(1) The Oregon Child Support Program (CSP) is bound by the provisions of this rule, except as described in section 14 of this rule.

(2) For purposes of this rule, and subject to the limitations set forth in section (3) of this rule, the contents of a case record include, but are not limited to:

(a) The names of the obligor, beneficiary and obligee or other payee;

(b) The addresses of the obligor, beneficiary and obligee or other payee;

(c) The address of record and address of service of the obligee, beneficiary or obligor;

(d) The name and address of the obligor's employer;

(e) The social security numbers of the obligor, the obligee and beneficiaries;

(f) The record of all legal and collection actions taken on the case;

(g) The record of all accrual and billings, payments and distribution of payments;

(h) The narrative record; and

(i) The contents of any paper file maintained for purposes of establishment and/or enforcement of a child support order or for accounting purposes.

(3) Any data listed in section (2) of this rule or any other data that resides on the Child Support Enforcement Automated System (CSEAS) that is extracted from computer interfaces with other agencies' computer systems is not considered to be child support information until or unless the data is used for child support purposes. Until such data is used for child support purposes it is not subject to any exceptions to confidentiality and it shall not be released to any other person or agency in any circumstance.

(4) Child support case related records, files, papers and communications are considered confidential. The administrator shall not disclose or use the contents of any such records, files, papers or communications for purposes other than those directly connected to the administration of the CSP except that information may be shared as follows:

(a) Information may be shared for purposes of administration of programs, in Oregon or other states, authorized and operated under:

(A) Part IV-A of the Social Security Act, which includes Temporary Assistance to Needy Families (TANF) administered by the Department of Human Services;

(B) Part IV-B of the Social Security Act, child welfare programs, which includes protective services programs operated by the Department of Human Services;

(C) Part IV-D of the Social Security Act, child support enforcement programs in Oregon and other states;

(D) Part IV-E of the Social Security Act, which includes foster care and adoption assistance programs administered by the Department of Human Services;

(E) Part IV-F of the Social Security Act, the Job Opportunities and Basic Skills (JOBS) Program;

(F) Title I of the Social Security Act, Old Age Assistance;

(G) Title X of the Social Security Act, Aid to the Blind;

(H) Title XIV of the Social Security Act, Aid to the Permanently and Totally Disabled;

(I) Title XVI of the Social Security Act, state programs and Supplemental Security Income for aid to the aged, blind or disabled;

(J) Title XIX of the Social Security Act, Medicaid programs; and

(K) Title XX of the Social Security Act, block grants to states for social services;

(b) Information may be shared for purposes of any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the plan or program referred to in subsection (a) of this section;

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(c) Information may be shared for the administration of any other federal or federally assisted programs that provide assistance, in cash or in kind, directly to individuals on the basis of need;

(d) Information disclosed in connection with collection, enforcement, establishment or accounting processes done by the administrator necessary to the administration of the CSP is not a violation of this rule;

(e) Information disclosed in connection with application of any state or federal statute or rule that authorizes the administrator to take an action or release information is not a violation of this rule;

(f)(A) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the Child Support Program. Information about a child support case may be shared with these elected officials and their staffs in response to issues brought by constituents who are parties to the case.

(B) County commissioners exercise a constituent representative function in county government for county administered programs. District attorney offices that operate child support programs may respond to constituent issues brought by county commissioners of the same county if the constituent is a party in a case administered by that office. District attorneys are Department of Justice (DOJ) contractors. CSP Administration may also respond to constituent issues brought by county commissioners on district attorney administered child support cases where the constituent is a party.

(C) Information disclosed under paragraphs (A) and (B) of this subsection is subject to the restrictions in section (6) of this rule;

(g) When a party requires the use of an interpreter in communicating with the administrator, information given to such an interpreter is not a violation of any provision of this rule; and

(h) A person who is the executor of the estate of a deceased party shall be entitled to receive any information that the deceased party would have been entitled to receive.

(5)(a) Notwithstanding section (9) of this rule, the Child Support Program, through use of the Child Support Enforcement Automated System, may release to a local regional workforce investment board the names, addresses, telephone numbers and identifying case number information of noncustodial parents residing in the service delivery area of the board.

(b) The information listed in subsection (a) of this section may be provided to a local regional workforce investment board for no purpose other than to identify and contact noncustodial parents regarding participation of the noncustodial parents in the IV-F agency JOBS program.

(c) For the purposes of this section, local regional workforce investment board means a board established in Oregon pursuant to the Workforce Investment Act to increase the employment, retention and earnings of participants and increase the occupational skills of participants residing in the service delivery area of the board.

(6) Information from a case record may be disclosed by the administrator to a party in that case, or attorney representing a party in that case, except for the following personal information about the other party, unless disclosure of that information is otherwise required by rule or statute:

(a) The residence or mailing address of the other party if that other party is not the state;

(b) The social security number of the other party;

(c) The name, address and telephone number of the other party's employers;

(d) The telephone number of the other party;

(e) Income and asset information of the other party;

(f) Financial institution account information of the other party; and

(g) The driver's license number of the other party.

(7) When the administrator has initiated a legal action and a party or an attorney for a party makes a request for discovery, the administrator shall release to the requestor any information from the case record, including any information derived from another agency, that was used for any calculations or determinations necessary for the legal action. Where there has been a finding and order of nondisclosure of information pursuant to OAR 137-055-1160, the administrator shall black out or otherwise remove any nondisclosable information before documents are released for discovery to the other party or the other party's attorney.

(8) When the administrator provides copies of documentary material from a party's case record to a party or an attorney representing a party upon request, the administrator may charge the requestor the actual costs of staff time and materials for producing those copies of records. The administrator may require payment of such costs before releasing requested documents to requestors.

(9) Information from case records may be disclosed to persons not a party to the child support case who are making contact with the administrator on behalf of a party, if the following conditions are met:

(a)(A) The person who is not a party to the case must provide the social security number of the party for whom they are making the inquiry or the child support case number; and

(B) The person who is not a party to the case making the contact on behalf of the party is:

(i) The current spouse or domestic partner of the party and residing with the party; or

(ii) A parent or legal guardian of the party;

(b) The administrator has determined that the person who is not a party to the case as described in subsection (a) of this section is making case inquiries on behalf of the party and disclosure of such information would normally be made to the party in reply to such an inquiry;

(c) Such disclosure of information to a person who is not a party to the case as described in subsection (a) of this section is limited to the specific inquiries made on behalf of the party and is subject to the restrictions in section (6) of this rule; and

(d) No information from a case record shall be disclosed to a person who is not a party to the case under any other circumstance, unless:

(A) The party has granted written consent to release the information to the person who is not a party to the case; or

(B)(i) The person who is not a party to the case has power of attorney for the party, the duration and scope of which authorizes release of information from a case record at the time that the person not a party requests such information. If a person who is not a party to the case has such power of attorney for a party, any information that would be released to the party may be released to the person having power of attorney.

(ii) When a person who is not a party to the case has power of attorney for a party, the duration and scope of which authorizes release of information from a case record, the power of attorney shall remain in effect until a written request to withdraw the power of attorney is submitted by the party, or by the person who is not a party to the case with power of attorney, to the administrator, unless otherwise noted on the power of attorney.

(iii) A power of attorney given to a collection agency by a party does not change the rights and responsibilities of the parties or a collection agency as described in ORS 25.020, OAR 137-055-6025 or this rule.

(10) Child support case account balance is derived from the child support judgment, which is public information, and from the record of payments, which is not. Therefore, the case balance is not public information and is confidential and may not be released to persons not a party except as otherwise provided in this rule.

(11) Information obtained from the Internal Revenue Service and/or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule and may not be released for purposes other than those specified by those agencies.

(12) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source shall be used for child support purposes only and shall not be disclosed to parties or any other person or agency outside of the CSP. Information about the prosecution of child support related crimes initiated by the administrator may be released to parties in the child support case.

(13) The Administrator shall not access computer records or records of any other nature available to them as employees that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee shall perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.

(14) When the administrator receives information that gives reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1) the administrator shall cause a report to be immediately forwarded to:

(a) The Department of Human Services as the agency that provides child welfare services and/or to an appropriate law enforcement agency if the child has been subjected to such abuse as a result of any support enforcement services provided under ORS 25.080; or

(b) The Department of Human Services as the agency that provides child welfare services if such abuse is not as a result of any support enforcement services provided under ORS 25.080, and not to any law enforcement agency.

(15) CSP staff who are subject to the Disciplinary Rules of the Oregon Code of Professional Responsibility are expected to conform to those rules.

ADMINISTRATIVE RULES

To the extent that those rules mandate a stricter standard than required by this rule, the Disciplinary Rules apply.

(16) If the administrator discloses or uses the contents of any records, files, papers or communications, the administrator is in violation of this rule is subject to progressive discipline, up to and including dismissal from employment.

Stat. Auth.: ORS 25.260, & Sec. 2, ch. 73 OL 2003
Stats. Implemented: 42 U.S.C. 603 & 654(26), ORS 25.260, ORS 127.005 & ORS 411.320
Hist.: AFS 31-1995, f. & cert. ef. 11-8-95; AFS 19-1996, f. & cert. ef. 5-10-96; AFS 38-1996, f. & cert. ef. 11-20-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0290; AFS 5-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1140

137-055-1160

Confidentiality — Finding of Risk and Order for Nondisclosure of Information

(1) Pursuant to ORS 25.020, unless there is a finding of risk and order for nondisclosure of information as defined in subsection (2)(b) of this rule, any judicial or administrative decree or order establishing paternity or that includes a provision concerning support must contain each party's:

- (a) Residence, mailing or contact address;
- (b) Social security number;
- (c) Telephone number;
- (d) Driver's license number; and
- (e) Employers' name, address and telephone number.

(2) For the purposes of this rule the following definitions shall apply:

(a) A claim of risk for nondisclosure of information means a claim by a party to a paternity or support case made to the administrator, an administrative law judge or the court that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information;

(b) A finding of risk and order for nondisclosure of information means a finding by the administrator, an administrative law judge or the court, which may be made ex parte, that there is reason to not contain or disclose the information specified in section (1) of this rule because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information.

(3) A claim of risk for nondisclosure of information may be made to the administrator by a party at any time that a child support case is open. Forms for making a claim of risk for nondisclosure of information shall be available from all child support offices and be made available to other community resources. At the initiation of any legal process that would result in a judicial or administrative decree or order establishing paternity or including a provision concerning support, the administrator shall provide parties an opportunity to make a claim of risk for nondisclosure of information.

(4) The administrator shall make a finding of risk and order for nondisclosure of information when a party makes a written and signed claim of risk for nondisclosure of information pursuant to section (3) of this rule unless the party does not provide an address of record pursuant to section (6) of this rule.

(5) An administrative law judge shall make a finding of risk and order for nondisclosure of information when a party makes a claim of risk for nondisclosure of information in a hearing unless the party does not provide an address of record pursuant to section (6) of this rule.

(6) A party who makes a claim of risk for nondisclosure of information must provide an address of record that is releasable to the other party in legal proceedings. The claim of risk for nondisclosure of information form provided to the party by the administrator shall have a place in which to list an address of record. If a requesting party does not provide an address of record, a finding of risk and order for nondisclosure of information shall not be made.

(7) When a finding of risk and order for nondisclosure of information has been made, the administrator shall ensure that all pleadings, returns of service, orders or any other documents that would be sent to both parties or would be available as public information in a court file shall not contain or shall have deleted any of the identifying information specified in section (1) of this rule. Any document sent to the court that contains any of the information specified in section (1) of this rule shall be in a sealed envelope with a cover sheet informing the court of the confidential nature of the contents.

(8) A finding of risk and order for nondisclosure of information shall be documented on the child support case file and shall remain in force until such time as a party who requested a claim of risk may retract the claim in writing.

(9) A party who requested a claim of risk may retract the claim on a form provided by the administrator. When a signed retraction form is received by the administrator, the administrator will enter, or will ask the court to enter, a finding and order terminating the order for nondisclosure of information.

(10) Any information previously protected under an order for nondisclosure of information will be subject to disclosure when the order for nondisclosure of information is terminated. The retraction form provided by the administrator shall advise the requestor that previously protected information may be released to the other party(ies).

(11) In cases where the administrator is not involved in the preparation of the order, any claim of risk for nondisclosure of information pursuant to ORS 25.020 shall be made to the court.

(12) Where the court has made a finding of risk and order for nondisclosure of information and the case is receiving or subsequently receives child support services, the administrator shall implement the court's finding pursuant to this rule. In such a case, if the party fails to provide an address of record within 30 days of a written request from the administrator, the administrator shall use, in order of preference, the party's mailing, contact or residence address as the address of record. The written request from the administrator must advise the party that if no address of record is provided within 30 days, the administrator will use the party's mailing, contact or resident address as the address of record, and the new address of record may be released to the other party(ies).

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73, OL 2003

Stats. Implemented: ORS 25.020

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 19-1998, f. 10-5-98, cert. ef. 10-7-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0291; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1160

137-055-1180

Confidentiality — Address of Record

(1) "Address of record" means an address provided by a party in a child support or paternity case to the administrator that may be an address other than the party's home address but is an address where the party can receive legal papers. The address of record may be released to the other party.

(2) A party may provide or amend an address of record to the administrator at any time the child support case is open.

(3) The Child Support Program shall provide annual notice to parties that they may provide an address of record to the administrator at any time.

(4) The administrator shall provide notice to parties of the opportunity to provide an address of record at the initiation of any legal action that requires the service of legal documents on a party or would cause the following to be shared with the other party as part of the legal action:

- (a) Home, mailing or contact address;
- (b) Social security number;
- (c) Telephone number;
- (d) Driver license number;
- (e) Employer's name, address and telephone number.

(5) The administrator shall maintain the address of record on the case record.

(6) If a party has provided an address of record and the address is more than six months old, the administrator will provide the party with notice and opportunity to update the address of record prior to initiating any legal action.

(7) An address of record may be any place that a party can receive mail but must be located within the same state as the party's home.

(8) An address of record shall be documented on the case record and shall remain in force until such time as a party may retract the address of record in writing.

(9) Notwithstanding the provisions of subsection (8), when documents sent to a party's address of record are returned because the address of record is not valid, the administrator shall use, in order of preference, the party's mailing, contact or residence address as the address of record and shall notify the party that such address may be released to the other party(ies).

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.011, ORS 25.020, ORS 25.080 & ORS 25.085

Hist.: AFS 23-1998, f. & cert. ef. 11-2-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0292; AFS 5-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1180; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1180

ADMINISTRATIVE RULES

137-055-1200

Use of Social Security Number by the Child Support Program

(1) Under the provisions of 42 USC 405(c)(2)(C), individuals who are affected by the Child Support Program shall be required to provide their social security numbers to the administrator.

(2) Social security numbers provided under this rule shall be used by the administrator as necessary for the following purposes:

- (a) The identification of individuals who are affected by the administration of the Child Support Program;
- (b) The establishment, modification and enforcement of child and medical support obligations;
- (c) The accounting and distribution of support payments;
- (d) The administration of the general public assistance laws of the State of Oregon.

(3) The Child Support Program shall provide written notice to individuals who are required to provide a social security number under section (1) of this rule that shall include the following:

- (a) That providing the social security number is mandatory;
 - (b) The authority for such requirement; and
 - (c) The purpose(s) for which the social security number will be used.
- (4) When the social security number for an individual is obtained from a source other than that individual, there is no requirement that the Child Support Program provide additional notice to the individual regarding disclosure or use of such social security number.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 25.081 & ORS 25.785

Hist.: AFS 4-1996, f. 2-21-96, cert. ef. 7-1-96; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0015; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1200; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1200

137-055-1320

Access by Individuals and the Court to FPLS for Purposes of Parentage Establishment and Child Support Establishment or Enforcement

(1) For the purposes of this rule, the following definitions apply:

(a) "FPLS" means the Federal Parent Locator Service operated by the United States Department of Health and Human Services;

(b) "Agent of the court" means an employee of the court who reports directly to a judge;

(c) "Original requestor" means a party to a paternity or child support case who is seeking FPLS information, directly, through an attorney, or through court request;

(d) "Order of protection" means a restraining order against abuse or a stalking protective order issued by an Oregon court or the court of another state;

(e) "Reasonable evidence of possible domestic violence" means:

(A) A record on the Oregon Judicial Information Network or the Law Enforcement Data System that an order of protection has or had been issued against the original requestor in favor of the person being sought; or

(B) A record that the person being sought has or had been granted good cause pursuant to ORS 418.042 not to establish paternity or to establish or enforce a support order against the original requestor; and

(C) A record that the person being sought has or had been granted a claim of risk not to have personal information included in a paternity or support order pursuant to OAR 137-055-1160 and that the other party in the legal action is or was the original requestor.

(f) "Reasonable evidence of possible child abuse" means that there is a record with the Department of Human Services child welfare program that the original requestor has been investigated for alleged abuse of any child.

(2) Pursuant to federal law, a custodial parent, legal guardian, agent of a child or the attorney of a child, custodial parent or legal guardian (other than for a child who is receiving Temporary Assistance for Needy Families (TANF)) seeking to establish parentage or to establish, modify or enforce a support order may request access to information from FPLS for the purposes of locating a parent or child.

(3) The information that may be provided if available from FPLS for the purposes set out in subsection (2) in this rule includes:

(a) The address and verification of the social security number of the individual sought;

(b) The name, address and federal employer identification number of the employer of the individual sought;

(c) Information about income from employment and benefits from employment, including health care coverage; and

(d) Information on the type, status, location and amount of any assets of, or debts owed by or to, the individual.

(4) An individual as specified in subsection (2) of this rule may make a request for FPLS information directly to the Division of Child Support (DCS) or through a court or agent of a court which has the authority to issue an order of paternity or support and maintenance of a child or to serve as the initiating court to seek such an order from another state.

(5) A request from an individual must be made in writing directly to DCS and must contain the purposes for which the information is requested and the full name, social security number and date of birth or approximate date of birth of the individual sought. The request must also contain the full name and date of birth and social security number of the person making the request. The request may be made on a form adopted by the Child Support Program (CSP) and available from any CSP office.

(6) A court may request FPLS information by sending a written request bearing the signature of a judge or of an agent of the court. Such a request shall state the purposes for which the information is requested and contain the full name, social security number and date of birth or approximate date of birth of the individual sought. The request must also contain the full name, date of birth and social security number of the individual making the request to the court.

(7) When DCS receives a request pursuant to subsection (5) or (6) of this rule, it shall determine if there is any record of possible domestic violence by the original requestor against the individual sought or any record of possible child abuse by the original requestor.

(8) Where no record is found pursuant to subsection (7) of this rule, DCS shall furnish the requested information to the individual or the court.

(9) Where there is a record of possible domestic violence or child abuse pursuant to subsection (7) of this rule, DCS shall:

(a) If the request is from an individual, advise the individual in writing that:

(A) There is reasonable evidence of possible domestic violence or child abuse and that DCS will not release the information to the individual; and

(B) The individual may request the information through the court pursuant to this rule, and the court will decide whether to release the information.

(b) If the request came through a court, transmit the requested information to the court with a notice that there is reasonable evidence of possible domestic violence or child abuse.

(c) Pursuant to 42 USC 653(b)(2)(B), upon receipt of the information and the notice of possible domestic violence or child abuse, the court shall determine whether disclosure of that information could be harmful to the parent or child sought, and if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make disclosure.

Stat. Auth.: ORS 25.265 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.265 & ORS 183.380

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0279; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1320; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1320

137-055-1340

Access to the FPLS by State and Federal Agencies

(1) For the purposes of this rule, the following definitions apply:

(a) "FPLS" means the Federal Parent Locator Service operated by the United States Department of Health and Human Services.

(b) An "authorized person" is:

(A) Any agent or attorney of any state who has the duty or authority under the law of such state to enforce a child custody or visitation order;

(B) Any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court;

(C) Any agent or attorney of the United States or of a state who has the duty or authority to investigate, enforce or bring a prosecution with respect to the unlawful taking or restraint of a child; and

(D) A state agency responsible for administering an approved child welfare plan or an approved foster care and adoption assistance plan.

(2) This rule sets out how:

(a) Pursuant to federal law, authorized persons shall have access to FPLS information to search for any parent or child for the purposes of enforcing any custody or visitation order or enforcing any state or federal law regarding the unlawful taking or restraint of a child.

(b) Pursuant to ORS 180.380, authorized persons shall have access to FPLS information to search for any parent or child for the purposes of enforcing any custody or visitation order or enforcing any state or federal law regarding the unlawful taking or restraint of a child.

ADMINISTRATIVE RULES

(3) The information provided to an authorized person from FPLS is limited to the most recent address and place of employment of the parent or child sought, if available.

(4) An authorized person may request FPLS information by sending a written request to the Division of Child Support bearing the signature of the authorized person. Such a request shall state the purposes for which the information is requested and contain the full name, social security number and date of birth or approximate date of birth of the person sought.

(5) The response to a requesting agency shall contain a notice stating that the information provided is confidential and is not to be shared with anyone who is not authorized to have it under that agency's controlling legal authority.

Stat. Auth.: Sec. 2 & 25, ch. 73, OL 2003

Stats. Implemented: ORS 25.265 & ORS 180.380

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 22-1983, f. & ef. 5-16-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0020; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0280; AFS 5-2001, f. 3-30-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1340; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1340

137-055-1360

Access by Individuals through the Court to FPLS for Purposes of Custody and Visitation Establishment and Enforcement

(1) For the purposes of this rule, the following definitions apply:

(a) "FPLS" means the Federal Parent Locator Service operated by the United States Department of Health and Human Services;

(b) "Original requestor" means a party to a custody or visitation (parenting time) case who is seeking FPLS information, directly, through an attorney, or through court request;

(c) "Custody determination" means a judgment or other order of the court providing for the custody or visitation (parenting time) of a child, and includes permanent orders, and initial orders and modifications;

(d) "Agent of the court" means an employee of the court who reports directly to a judge;

(e) "Reasonable evidence of possible domestic violence" means:

(A) A record on the Oregon Judicial Information Network or the Law Enforcement Data System that an order of protection has or had been issued against the original requestor in favor of the person being sought; or

(B) A record that the person being sought has or had been granted good cause pursuant to ORS 418.042 not to establish paternity or to establish or enforce a support order against the original requestor; or

(C) A record that the person being sought has or had been granted a claim of risk not to have personal information included in a paternity or support order pursuant to OAR 137-055-1160 and that the other party in the legal action is or was the original requestor; and

(f) "Reasonable evidence of possible child abuse" means that there is a record with the Department of Human Services child welfare program that the original requestor has been investigated for alleged abuse of any child.

(2)(a) Pursuant to federal law, individuals seeking to establish, modify or enforce a custody determination may request, through a court, access to information from FPLS for the purposes of locating a parent or child.

(b) Pursuant to ORS 180.380, individuals seeking to establish, modify or enforce a custody determination may request through a court access to information from FPLS for the purposes of locating a parent or child.

(3) The information provided to the court from FPLS is limited to the most recent address and place of employment of the parent or child sought.

(4) A court may request locate information by sending a written request bearing the signature of a judge or of an agent of the court to DCS. Such a request shall state the reasons for which the information is requested and contain the full name, social security number and date of birth or approximate date of birth of the individual sought. The request shall also contain the name, date of birth and social security number of the individual making the request to the court.

(5) When DCS receives a request pursuant to subsection (4) of this rule from a court, it shall determine if there is any reasonable evidence of possible domestic violence by the original requestor against the individual sought or any reasonable evidence possible child abuse by the original requestor.

(6) Where no record is found pursuant to section (5), DCS shall furnish the requested information to the court.

(7) Where there is a record of possible domestic violence or child abuse pursuant to section (5), DCS shall transmit the requested information to the court with a notice that there is reasonable evidence of possible domestic violence or child abuse.

(8) Pursuant to 42 USC 653(b)(2)(B), upon receipt of the information and the notice of possible domestic violence or child abuse, the court shall determine whether disclosure of that information could be harmful to the individual sought and if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make disclosure.

Stat. Auth.: Sec. 2 & 25, ch. 73, OL 2003

Stats. Implemented: ORS 25.265

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0281; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1360

137-055-1500

Incentive Payments

(1) For purposes of this rule, the following definitions apply:

(a) "Centralized services" may include, but are not limited to: accounting functions, bankruptcy case management, central registry for interstate cases, computer charges, constituent desk, Child Support Program director's office administrative costs, garnishments resulting from a Financial Institution Data Match, locate services, mainframe, Oregon District Attorney Association liaison position, postage, receipt and distribution of support payments, and unemployment compensation and workers' compensation withholdings;

(b) "County" or "Counties" means the county district attorneys under cooperative agreements to provide support enforcement services under ORS 25.080 and any county which enters into an agreement with the Division of Child Support (DCS) under ORS 25.080(5) on or after May 1, 2001, for DCS to assume the functions of the district attorney;

(c) "Counties' Collection Base" is that portion of the "State's Collection Base" attributable only to amounts for cases assigned to the counties;

(d) "DCS' Collection Base" is that portion of the "State's Collection Base" attributable only to amounts for cases assigned to DCS;

(e) "State's Collection Base" has the meaning given in 45 CFR 305.31(f);

(f) "Available incentive payment pool" is the projected amount from the biennial budget of the gross amount of incentives to be received from the federal Department of Health and Human Services (DHHS) for the current fiscal year.

(2) Beginning with incentive payments received for federal fiscal year (FFY) 2002 (October 1, 2001 through September 30, 2002), incentive payments received by the Oregon Child Support Program from the federal DHHS pursuant to 45 CFR 305 et. seq. shall be allocated to each county and the Division of Child Support (DCS) based on their performance in four program areas:

(a) Support order establishment;

(b) Current support collections;

(c) Collection on arrears; and

(d) Cost-effectiveness.

(3) The incentive calculations for the current federal fiscal year shall be based on the performance data from the final Office of Child Support Enforcement 157 report for the previous federal fiscal year and the state's available incentive payment pool for the current federal fiscal year.

(4) The formulas to compute each county's and DCS's performance for the four program areas identified in section (2) of this rule shall be as stated in 45 CFR 305.2.

(5)(a) The level of performance of each county and DCS as calculated using the formulas referenced in section (4) of this rule determines the applicable percentage for each of the four performance measures as set out in tables in 45 CFR 305.33;

(b) The cost effectiveness performance category shall include an addition to the total expenditures of the counties for the cost of centralized services and a subtraction of the same amount from the DCS total expenditures for the cost of centralized services provided to the counties.

(6) For the support order establishment and current support collections performance measures, the applicable percentages as determined per section (5) of this rule are multiplied by 100% of the counties' collection base for county computations or 100% of DCS' collection base for DCS computations.

(7) For cases receiving an arrears payment and the cost effectiveness performance measures, the applicable percentages as determined per section (5) of this rule are multiplied by 75% of the counties' collection base for county computations or 75% of DCS' collection base for DCS computations.

ADMINISTRATIVE RULES

(8) The incentive calculations for the four performance areas calculated in section (6) and (7) of this rule are added together to obtain the following amounts:

- (a) The incentive base amount for each individual county; and
- (b) The incentive base amount for DCS.

(9) The sum of the incentive base amounts for all the counties as calculated in (8)(a) is the total incentive base amount for all the counties.

(10) The state aggregate incentive base amount is the sum of the total incentive base amount for all the counties as calculated in (9), and the incentive base amount for DCS as calculated in (8)(b).

(11) The counties' collective incentive payment share is determined by dividing the total incentive base amount for all the counties as calculated in (9), by the state aggregate incentive base amount as calculated in (10), then multiplying the resulting percentage by the available incentive payment pool for the current federal fiscal year.

(a) The counties collective incentive payment share shall be reduced by a proportionate share of costs for centralized services, as determined upon review and agreement pursuant to subsection (15) of this rule, to be retained by DCS to offset the costs of such services provided to the counties by DCS.

(b) Each individual county's incentive payment is determined by dividing its county's incentive base amount by the total incentive base amount for all the counties, then multiplying the resulting percentage by the counties' collective incentive payment share as determined in subsection (11)(a).

(12) DCS' incentive payment is determined by dividing the DCS incentive base amount by the state aggregate incentive base amount as calculated in (10), then multiplying the resulting percentage by the available incentive payment pool for the current federal fiscal year.

(13) Each county's and DCS' incentive payment, as calculated respectively in section (11)(b) and (12) of this rule, shall be distributed in equal quarterly payments for the current federal fiscal year based on the counties' and DCS' performance for the prior federal fiscal year.

(14) When the federal DHHS reconciles and determines the actual annual incentive payment to the state following the end of each federal fiscal year, any resulting positive or negative incentive adjustment amount shall be apportioned according to the calculations in section (4) through (12) of this rule using the performance figures for the corresponding prior federal fiscal year:

(a) If the adjustment results in a positive incentive to the counties, such payment shall be distributed no later than 60 days following the state's receipt of the incentive adjustment from the federal DHHS; or

(b) If the adjustment results in a negative incentive and incentive overpayment to the counties, such overpayment shall be recovered from future incentive payments due and distributed to the individual counties.

(15) The allocation of incentive payments as set out in this rule and the cost of centralized services shall be reviewed every two years, commencing in January 2004.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: Sec. 2, Ch. 73 OL 2003

Hist.: AFS 80-1985(Temp), f. & ef. 12-31-85; AFS 14-1986, f. & ef. 2-11-86; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0052; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0255; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1500; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1500

137-055-1600

Child Support Program Participant Grievance

(1) For the purposes of this rule the following definitions shall apply.

(a) "Program participant" means any obligor, obligee or beneficiary in an Oregon child support case or any person denied services after submitting an application;

(b) "Grievance" means a formal complaint filed against the administrator;

(c) "Grievant" means a program participant who has filed a grievance as set out in this rule.

(2) Program participants are entitled to fair, professional, courteous and accurate service. A grievance procedure has been established to enable program participants a means to formally express when they perceive that they have not received fair, professional, courteous or accurate service. This grievance procedure shall be handled by the Division of Child Support (DCS) under the oversight of the Oregon Child Support Program Director.

(3) Grievances may be filed by program participants or attorneys or other employees of law offices representing program participants.

(4) It is recognized that child support enforcement activities may create negative reactions among some program participants. It is further recognized that a high level of service may not result in desired support pay-

ments. Therefore, a grievance filed against the administrator must be investigated to determine if the grievance has merit. Grievances which will be considered to be without merit include:

(a) Grievances that protest actions that are prescribed or permitted by state administrative rule or law, or federal law or regulation;

(b) Grievances that protest that support payments have not been made if the administrator has taken appropriate steps in accordance with state and federal rules to obtain payments;

(c) Grievances filed regarding actions taken by, or failure to take action by, another agency or a child support agency of another state; or

(d) Grievances that do not constitute a complaint but merely convey information to, or request an action by the administrator.

(5) The decision to find the grievance to be without merit or send it to the appropriate office for resolution shall be made by the Child Support Program (CSP).

(6) Grievances shall be made on a form developed by the CSP.

(7) Nothing in this rule precludes any program participant or any other person or entity from expressing complaints to the administrator by any other method.

(8) Grievance forms shall be available to program participants through any CSP office. The address and telephone number where a grievance form can be obtained and information about the grievance process shall be:

(a) Conspicuously posted in all CSP offices;

(b) Included in the standard application for support enforcement services;

(c) Included in initial letters sent to obligors and obligees by the CSP;

(d) Included in the CSP's general information pamphlet;

(e) Included in or with an annual notice mailed to obligors and obligees.

(9) Completed grievance forms must be filed by grievants with the CSP constituent desk. Completed grievance forms or photocopies of these forms filed with the administrator shall be immediately forwarded to the CSP's constituent desk. Upon receipt of the grievance, the CSP constituent desk shall:

(a) Record receipt of the grievance;

(b) Investigate the grievance to determine if the grievance is without merit per section (4) of this rule;

(c) If the grievance is without merit per section (4) of this rule, the grievance shall be returned to the grievant with an explanation about why it has been returned;

(d) If the grievance is not returned to the grievant it will be forwarded to the grievance coordinator(s) in the appropriate branch office for resolution.

(10) Upon receipt of the grievance, the office against whom the grievance has been filed shall investigate the grievance. That office will either take corrective action and notify the grievant or contact the grievant to explain why corrective action is not appropriate. The CSP constituent desk will set time limits for the administrator to address the grievance, not to exceed 90 days from the date the grievance is received at DCS. The date received by the CSP constituent desk shall be considered to be the date the grievance is screened and accepted.

(11) Upon completion of grievance processing the office against whom the grievance has been filed will send the grievance form to CSP constituent desk with a report of the grievance investigation and the disposition.

(12) Grievances that allege serious violations of personnel rules or standards of personal conduct, such as, but not limited to, allegations of racial or sexual discrimination or sexual harassment, in which allegations are substantiated, shall be removed from this grievance process and be part of the personnel process of the office against whom the grievance has been filed.

(13) A record of grievances and dispositions shall be maintained by the CSP for a period of three years.

(14) The administrator against whom a grievance has been filed shall not discriminate against the grievant because a grievance has been filed.

(15) Performance reviews shall include examination of the administrator's compliance with these grievance procedures and an examination of grievances filed against the administrator and resolution to such grievances for the previous calendar year.

Stat. Auth.: ORS 25.243 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080 & ORS 25.243

Hist.: AFS 1-1995, f. 1-3-95, cert. ef. 5-2-95; AFS 32-1995, f. & cert. ef. 11-8-95; AFS 20-1997, f. & cert. ef. 11-7-97; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0010; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1600; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1600

ADMINISTRATIVE RULES

137-055-2020

Referral of TANF and Medical Assistance Cases to DCS

(1) The Department of Human Services shall notify the Division of Child Support (DCS) when the department provides TANF cash assistance, or medical assistance under the EXT, MAA, MAF, OHP, or SAC programs as defined in OAR 461-101-0010, to children and/or to a pregnant woman when one or both parents of each child, or the father of the pregnant woman's unborn, are absent from the benefit group.

(2) DCS is responsible for establishing paternity and for establishing and enforcing child support and health care coverage for all children receiving TANF cash assistance or EXT, MAA, MAF, OHP, or SAC medical assistance when one or both parents are absent from the benefit group.

(3) Notwithstanding sections (1) and (2) of this rule, if an Oregon county district attorney is already providing child support services pursuant to ORS 25.080(1)(b) on a case where the family, or a family member, is found eligible for MAF or OHP, the district attorney will continue to provide services for both child support and health care coverage on that case.

(4) In non-TANF cases, the obligee may elect not to pursue establishment and enforcement of a child support obligation. If the obligee so elects, the administrator will provide only those services necessary to establish and enforce an order for health care coverage, including establishment of paternity where necessary.

Stat. Auth.: ORS 25.080 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 4-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0035; AFS 7-2002, f. & cert. ef. 4-25-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2020

137-055-2040

District Attorney Enforcement Responsibility for New and Continued Child Support Services

(1) The district attorney of any Oregon county shall provide support enforcement services pursuant to ORS 25.080 for any resident of the same county who applies for service. However, if the person obligated to pay support resides in the same county where the operative support order is entered, the district attorney of the order county shall provide the enforcement services.

(2) The district attorney of any Oregon county shall provide continued support enforcement services as required in OAR 137-055-1100 for any person who resides in the same county. However, if the person obligated to pay support resides in the same county where the operative support order is entered, the district attorney of the order county shall provide the enforcement services.

(3) If the person applying for or receiving continued service resides in another state, the district attorney of the Oregon county where the obligor resides shall provide enforcement services.

(4) If both the person applying for or receiving continued service and the obligated party reside in another state, the person applying for or receiving continued service will be advised to contact the support enforcement agency in the state in which they reside.

(5) The matrix set out in Table 1 is offered as an aid in applying sections (1) through (4) of this rule. [Table not included. See ED. NOTE.]

(6) Notwithstanding the foregoing sections, the district attorney of any Oregon county may elect to perform support enforcement service for any obligee who so authorizes.

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

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 59-1986(Temp), f. & ef. 8-1-86; AFS 9-1987, f. & ef. 2-6-87; AFS 28-1988, f. & cert. ef. 4-5-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-057; AFS 10-1992, f. & cert. ef. 4-3-92; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0040; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2040

137-055-2060

Cases with Contradictory Purposes

(1) Cases with contradictory purposes are defined as two or more child support cases in which the same person is, or has been, both an obligee and obligor in those cases and the cases are, or have been, assigned to the same Child Support Program (CSP) office.

(2) The administrator represents the interests of the state. There is no conflict of interest when the same CSP office is assigned cases where the same person is, or has been, both an obligor and an obligee. The administrator is responsible for impartial application of the law. Nothing in this rule precludes a CSP office from having cases assigned to them in which the same person is, or has been, both an obligor and obligee.

(3) It is recognized that a person receiving child support services or a person eligible to receive child support services may be reluctant to pursue those services because the CSP office through which they do or would receive services is, or has been, the same CSP office in another case where the person is, or has been, the opposite party.

(4) A person who has cases in which that person is, or has been, or upon application would be, both an obligor and obligee with cases assigned to the same CSP office may ask the CSP office manager to transfer one of the cases to a different CSP office. The CSP office manager shall consider the request and either grant the transfer or explain to the requestor why the transfer is not granted.

(5) If a case is transferred, the assignment to a different CSP office shall take into consideration the needs of the requestor and the other party.

(6) If the CSP office manager denies the request for transfer, the requestor may ask the CSP Director to review the decision of the administrator and to facilitate a resolution.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 6-1995, f. 2-17-95, cert. ef. 3-1-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0042; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2060

137-055-2080

Office Responsible for Providing Services when Conflict of Interest

(1) The Child Support Program (CSP) will, to the maximum extent possible, assign support cases to avoid the potential for or the appearance of a conflict of interest.

(2) If an actual or potential conflict of interest is identified by either an employee or a party or potential party to a case, the manager of the affected office shall make a determination whether the case should:

- Remain assigned to the current employee;
- Be reassigned to another employee within the same office; or
- Be reassigned to a different office.

(3) If the determination made under section (2) of this rule is to reassign the case to a different office, the manager of the affected office shall contact the manager of another CSP office, which may be either a district attorney or Division of Child Support office, to reach an agreement and arrange for the case to be reassigned.

(4) If the branch offices cannot reach an agreement for the case to be reassigned or if the party or potential party disagrees with the determination made by the manager of the affected branch office, the CSP Director shall decide which office has the responsibility for providing services for that particular case.

Stat. Auth.: Sec. 2, Ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist. SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2080

137-055-2120

Rules for Contested Case Hearings in the Child Support Program

Contested case hearings for the Child Support Program are conducted in accordance with the Attorney General's Model Rules at OAR 137-003-0501 through 137-003-0700 and with OAR 137-055-2120 through 137-055-2180. The hearings are not open to the public and are closed to non-participants, except the administrative law judge may permit non-participants to attend subject to the parties' consent.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 2, ch. 73 OL 2003

Hist.: AFS 5-1995, f. & ef. 2-6-95; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0800; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2120

137-055-2140

Delegations to Administrative Law Judge

Administrative law judges of the Office of Administrative Hearings are authorized to do the following:

(1) Issue final orders without first issuing proposed orders (see OAR 137-003-0501(3)).

(2) Issue final orders by default in cases described in OAR 137-003-0670, except in a case authorized by ORS 416.415. An administrative law judge is authorized to issue a final order by default in a case authorized by ORS 416.425(2) but not in any other case authorized by ORS 416.425.

(3) Provide to each party the information required to be given under ORS 183.413(2) or OAR 137-003-0510(1) (see OAR 137-003-0510(2)).

(4) Order and control discovery (see OAR 137-003-0570(9)).

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 2, ch. 73 OL 2003

ADMINISTRATIVE RULES

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0801; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2140

137-055-2160

Requests for Hearing

(1) A request for hearing must be in writing and signed by the party, the party's authorized representative, or the administrator.

(2) A request for hearing may be made on a form provided by the Child Support Program and must contain the party's residence, mailing or contact address, a telephone number where the party can be contacted and the reasons for objection to the contested case notice.

(3) A request for hearing must be received by the CSP office which issued the action within the time provided by law.

(4) A new or amended request for hearing is not required if the administrator amends the order appealed from.

(5) When a party requests a hearing after the time specified by the administrator, the administrator shall handle the request pursuant to OAR 137-003-0528, except that the administrator may accept the late request only if:

(a) The request is received before or within 60 days after entry of a final order by default;

(b) The circuit court has not approved the final order or there is no appeal of the final order pending with the circuit court, and

(c) The cause for failure to timely request the hearing was beyond the reasonable control of the party, unless other applicable statutes or Oregon Child Support Program administrative rules provide a different time frame or standard.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 2, ch. 73 OL 2003

Hist.: AFS 5-1995, f. & ef. 2-6-95; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0830; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2160

137-055-2170

State Represented by the Administrator

The administrator is authorized to appear on behalf of the state in the following types of hearings:

(1) Administrative child support adjudications pursuant to ORS 416.415, 416.425(1), 416.427 and 416.429;

(2) Administrative hearings pursuant to ORS 25.610 and 293.250(d);

(3) Hearings regarding the suspension of occupational and driver licenses, certificates, permits and registrations pursuant to ORS 25.765;

(4) Hearings regarding the establishment, modification and enforcement of interstate child support orders pursuant to ORS chapter 110;

(5) Hearings regarding credit for direct payments pursuant to ORS 25.020(13);

(6) Hearings regarding overpayments pursuant to ORS 25.125.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 183.452

Hist.: JD 6-1987, f. & ef. 10-16-87; JD 4-1995, f. 2-27-95, cert. ef. 3-1-95; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 137-055-0300

137-055-2180

Reconsideration and Rehearing

A petition for reconsideration or rehearing authorized by OAR 137-003-0675 must be filed with the administrative law judge who signed the final order. An administrative law judge will rule on the petition and take appropriate action if the petition is allowed.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 2, ch. 73 OL 2003

Hist.: AFS 5-1995, f. & ef. 2-6-95; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0930; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2180; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2180

137-055-2320

Requirement for Services — Obligor Bankruptcy Situations

(1) The administrator shall have access to an attorney admitted to federal court practice to handle situations of obligor bankruptcy, or contract with suitable counsel so admitted.

(2) For the purposes of this rule, "suitable counsel" means any of the following:

(a) That portion of the Oregon Department of Justice designated to handle bankruptcy situations; or

(b) Any Oregon county district attorney's office with staff admitted to federal court practice to handle situations of obligor bankruptcy; or

(c) Private counsel so admitted, provided that such private counsel complies with the administrative rule(s) and procedures of the Child Support Program that apply to situations of obligor bankruptcy.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 14-1994, f. 7-25-94, cert. ef. 8-1-94; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0282; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2320; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2320

137-055-2340

Obligor Bankruptcy Situations in General

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to all bankruptcies filed on or after October 22, 1994.

(1) Upon being notified of the bankruptcy, the administrator shall:

(a) Enter the appropriate codes for bankruptcy on the case record, and

(b) Narrate the case record with the bankruptcy information to alert other program participants of the bankruptcy situation.

(2) Upon receiving a discharge or dismissal notice and verifying that the bankruptcy was closed, the administrator shall:

(a) Remove the codes for bankruptcy on the case record, and

(b) Narrate the bankruptcy information on the case record.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0284; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2340; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2340

137-055-2360

Obligor Chapter 7 and Chapter 11 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 7 and Chapter 11 bankruptcies filed on or after October 22, 1994.

(1) Upon receiving notification of bankruptcy, the administrator shall:

(a) Stop any legal action that is pending, except as follows:

(A) Legal action to establish paternity and/or support.

(B) Modification services.

(b) Leave any existing income, unemployment, or worker's compensation withholding orders in place. In a Chapter 7 bankruptcy, collections shall continue against post-petition earnings for both current support and for both pre-petition and post-petition arrears. In a Chapter 11 bankruptcy, collections shall continue for current support and post-petition arrears. If no withholding order is in place, the administrator shall obtain a withholding order, as appropriate, when employment becomes known as the Automatic Stay does not apply in this situation.

(c) Determine if there are any other enforcement actions in process which may be stayed or which may involve property of the bankruptcy estate, such as a writ of garnishment, license suspension, and interception of tax refunds. Terminate any action that involves property of the bankruptcy estate and notify the Division of Child Support so that property of the estate that has not been distributed can be returned to the bankruptcy trustee.

(2) The administrator shall file no Proof of Claim if no assets are involved in a Chapter 7 bankruptcy.

(3) If there are assets in a Chapter 7 bankruptcy, the administrator shall file a Proof of Claim, if applicable, even if the time period for filing a Proof of Claim has passed.

(4) In a Chapter 11 bankruptcy, the administrator shall file a Proof of Claim for current child support and arrears owed at the time the petition was filed, if any.

(5) The administrator respond to any objections filed to the Proof of Claim.

(6) The administrator shall petition the Bankruptcy Court for a Relief from Stay unless there is evidence that the bankruptcy will close or the Plan Confirmed before a relief from stay can be obtained. This shall apply if the bankruptcy stay prevents the next enforcement action that is needed in a child support case.

(7) In a Chapter 7 bankruptcy, the administrator shall not file or otherwise cause a property lien to be filed until the bankruptcy is closed or dismissed, unless an appropriate Relief of Stay is obtained. In a Chapter 11 bankruptcy, a property lien may be filed after the Plan is confirmed if the property reverts to the obligor.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 2, ch. 73 OL 2003

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95; AFS 15-1995, f. 7-7-95, cert. ef. 7-10-95; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0286; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-

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03, Renumbered from 461-200-2360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2360

137-055-2380

Obligor Chapter 12 and Chapter 13 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 12 and Chapter 13 bankruptcies filed on or after October 22, 1994.

(1) Upon receiving notification of bankruptcy, the administrator shall:

(a) Stop any legal action that is pending, except as follows:

(A) Legal action to establish paternity and/or support.

(B) Modification services.

(b) Terminate any administrative or judicial orders to withhold and any withholding order for unemployment compensation and worker's compensation.

(c) Determine if there are any other enforcement actions in process which may be stayed or which may involve property of the bankruptcy estate, such as garnishment of bank accounts and interception of tax refunds. Terminate any action that involves property of the bankruptcy estate and notify the Division of Child Support so that property of the estate that has not been distributed can be returned to the bankruptcy trustee.

(2) The administrator shall file a Proof of Claim for current child support and arrears owed at the time the petition was filed, in any, if the time period for filing a Proof of Claim has not passed.

(3) The administrator shall respond to any objections filed to the Proof of Claim.

(4) The administrator shall review the Summary of Plan or proposed Plan and the Debtor's Schedule J, if available, for the repayment of arrears and for payment of ongoing child support.

(a) If the time period for filing objections has not passed, the administrator shall file an objection to a Plan if the plan is not feasible.

(b) If the Plan does not provide for pre-petition arrears, the administrator shall file an objection to have the pre-petition arrears included in the plan if the time period for filing an objection has not passed.

(5) After confirmation, if the property of the estate has vested in the debtor, the administrator shall resume collection on current child support and post-petition arrears. If the Plan provides for the pre-petition arrears, collection of the pre-petition arrears will be governed by the terms of the Plan.

(6) The administrator shall petition the bankruptcy court for a Relief from Stay if the bankruptcy stay prevents the next enforcement action that is needed in a child support case.

(7) The Automatic Stay prevents the filing of a property lien for pre-petition arrears until such time as the bankruptcy is discharged. The administrator shall not file or otherwise cause such property lien to be filed until the bankruptcy is discharged, unless an appropriate Relief of Stay is obtained.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 2-1995, f. 1-10-95, cert. ef. 1-11-95; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0288; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2380; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2380

137-055-3020

Paternity Establishment Procedures

(1) When a case involves a child who is not yet born, the administrator will take no action to establish paternity or to provide locate services until such time as the child is born.

(2)(a) In all cases in which a child was conceived in Oregon, the administrator will initiate legal proceedings to establish paternity under ORS chapter 109 or ORS chapter 416.

(b) Except for proceedings filed under ORS chapter 109, past support shall be established as provided by ORS chapter 416 and OAR 137-055-3220.

(3) In all cases in which a party alleges facts, which if true, conclusively establish paternity under ORS 109.070, and if a man other than the man who is alleged to be conclusively presumed as the legal father has been named by a party as a possible biological father of the child in question, the administrator will certify the case to the appropriate circuit court for a determination of whether the conclusive presumption found in ORS 109.070 applies.

(4) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have excluded a man as the father of the child, the following provisions apply:

(a) If there is only one remaining untested possible biological father, that man is constructively included as the father by virtue of the other man's exclusion as the father.

(b) If there are more than one remaining untested possible biological fathers, the administrator will initiate action against each man, either simultaneously or one at a time, to attempt to obtain parentage tests which either exclude or include the man.

(5) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have included a man as the father of the child at a cumulative paternity index of at least 99, any other untested possible father(s) will be considered to be constructively excluded by virtue of the first man's inclusion.

(6)(a) The Child Support Program may initially pay the costs of parentage tests, and will seek reimbursement of those costs, but may agree to waive the costs.

(b) If an alleged father fails to appear as ordered for parentage tests, but the mother and child have appeared, reimbursement will be sought from the alleged father for the costs incurred.

(c) The maximum amount allowed to be entered as a parentage test judgment against a party is the amount the Child Support Program agrees to pay a parentage testing laboratory used to perform the tests.

(d) A judgment for parentage test costs reimbursement will not be sought:

(A) Against a person who has been excluded as a possible father of a subject child;

(B) If the mother stated that more than one man could be the father of the child, and has been unable to name a most likely alleged father, and the man tested has not objected to the entry of an order establishing paternity; or

(C) If the alleged father has applied for services under ORS 25.080 and requested paternity establishment in accordance with OAR 137-055-3080.

(7) A judgment for parentage test costs reimbursement will not be sought against any person found to be the legal father for costs attributable to testing other alleged fathers in any case in which the mother stated that more than one man could be the father of the child.

(8) When a party requests additional parentage testing as provided in ORS 109.252(2), the following provisions apply:

(a) The laboratory selected for additional testing must be a laboratory approved by accreditation bodies designated by the Department of Human Services; and

(b) The party making the request must advance the costs of the additional tests to the accredited laboratory.

(9) Upon receipt of a party's request for additional parentage testing and proof that payment has been advanced to an accredited laboratory, the administrator or the court shall order additional testing.

(10) If a non-requesting party fails to appear for the additional parentage testing, the administrator shall take appropriate steps to compel obedience to the order for additional testing.

(11) If a requesting party fails to appear for the additional parentage testing, the administrator may enter an order in accordance with OAR 137-055-3100.

(12) The administrator may dismiss or terminate a proceeding to establish paternity after sending written notice to the parties that the case is being considered for dismissal or termination and that any comments or objections must be made within 10 days.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.430

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1020; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3020

137-055-3040

Temporary Order for Support

(1) When a party to an order to establish paternity objects to the entry of such order and provided the parentage test results in a cumulative paternity index of 99 percent or greater, the administrator shall request the court to issue a temporary support order.

(2) A party other than the state may request an order establishing temporary support.

(3) If, in response to the initial parentage test results, a party requests additional parentage tests, such request shall be considered an objection to the entry of the order establishing paternity and the administrator shall order the additional parentage tests.

(4) When the administrator requests the court to issue a temporary support order, the administrator shall certify the case to court for:

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- (a) The establishment of prospective support;
 - (b) A parentage determination;
 - (c) A final order for parentage, support and past support.
- (5) The temporary order entered by the court shall have the same force and effect as any other order entered by the administrator, court or other tribunal.
- (6) If the court makes a determination of non-parentage, the obligor may request that the court order the return of any monies collected as a result of the temporary order.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.430

Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1005; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3040

137-055-3060

Regarding the Initiation of Action Under ORS 416.400 to 416.470 to Establish Paternity When More than One Possible Father Has Been Named

(1) In any action to establish paternity initiated under ORS 416.400 to 416.470, when the mother of the child for whom paternity is being established states that the father of the child could be more than one man, the administrator may initiate action against those men who are named by the mother as possible fathers as provided for in this rule.

(2) If mother is able to name one of the possible fathers as the most likely father based upon the date of conception, the physical characteristics the child shares with that man, or other factors, and information sufficient to effect personal service upon that man is apparently available, the administrator may initiate action against that man only.

(3) If mother cannot identify one of the men who may be the father as the most likely father, the administrator may gather additional information, including information from the mother and from any physician or other licensed health care provider of obstetrical care to mother, which may assist the mother in identifying the most likely father.

(4) If mother remains unable to identify one of the possible fathers as the most likely father, the administrator may initiate legal action against any one or more possible fathers, as named by the mother, upon whom the administrator can apparently effect personal service based on the information it has available.

(5) The administrator shall provide notice to any possible father described in this rule and served in an action to establish paternity that the mother of the child for whom the administrator seeks to establish paternity has named another man or men as a possible father unless that other man (or men) has been excluded by parentage tests.

(6) The administrator will enter no order establishing paternity with respect to a man who has not been named by mother as the most likely father unless the provisions of either subsection (a) or (b) of this section apply.

(a) The man has been subjected to parentage tests which have not excluded him as a possible father of the child in question; or,

(b) All other men named by mother as possible fathers have been excluded as possible fathers by parentage tests.

(7) Notwithstanding any other provision of this rule, its requirements do not apply when there is conclusive presumption of paternity pursuant to ORS 109.070 or when one of the possible fathers is entitled to reasonable notice under ORS 109.096.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.400 - ORS 416.470

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1040; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3060

137-055-3080

Responsibility of Administrator to Establish Paternity at Request of Self-Alleged Father

(1) For purposes of this rule, self-alleged father means a man who both:

(a) Claims that he is, or possibly is, the biological father of a child born out of wedlock as defined in ORS 109.124; and

(b) Wishes to have paternity legally established for the child, establishing himself as the legal father.

(2) The administrator shall be responsible for pursuing establishment of paternity at the request of a self-alleged father, subject to all of the following:

- (a) The self-alleged father must either:

(A) Be eligible for services under ORS 25.080, because he is receiving TANF cash assistance or Medicaid assistance for the child born out of wedlock; or

(B) Complete an application for services as provided under ORS 25.080.

(b) Unless otherwise prohibited under this rule, the administrator shall:

(A) Take all appropriate steps to determine if the self-alleged father is the biological father; and

(B) Pursue appropriate action to legally establish paternity unless evidence indicates that he is not the biological father.

(c) The administrator shall not pursue action to establish paternity under this section in any case where adoption of the child is final or where legal paternity, as specified in ORS 109.070, has already been established for the child;

(d) The administrator shall not pursue action to establish paternity under this rule if the Child Support Program Director has determined that such action would not be in the best interests of the child, in accordance with section (5) of this rule.

(3) For purposes of this rule, legal proceedings for adoption of the child are pending if either of the following provisions is true:

(a) The mother or legal guardian of the child has released or surrendered the child to the adoptive parent(s) for adoption, and such release or surrender has become irrevocable because the child has been placed in the physical custody of the adoptive parent(s) and the other conditions of ORS 109.312 have been met;

(b) The mother or legal guardian of the child has released or surrendered the child to the Department of Human Services or an incorporated child-caring agency for adoption, and such release or surrender has become irrevocable because the child has been placed by the agency in the physical custody of a person or persons for the purpose of adoption, in accordance with ORS 418.270(4).

(4)(a) When a self-alleged father requests the administrator establish his legal paternity for a child, the administrator shall send written notification by first class mail to the last-known address of the mother and (if a separate party) legal guardian of the child. Further, if the administrator knows or is informed that legal proceedings for adoption of the child are pending, the administrator shall also send written notification to the licensed private agency handling the adoption, or if none exists, to the Department of Human Services;

(b) If the mother and (if a separate party) legal guardian cannot readily be found, the enforcing agency administrator shall make a diligent attempt to locate the party. A diligent attempt includes but is not limited to submitting the case to the Division of Child Support for state parent locator services. If unable to locate the mother and legal guardian within 30 days, the administrator shall proceed to process the case as described in section (8) of this rule without the notice described in this section;

(c) The written notification shall state the following:

(A) That the self-alleged father has asked the administrator for establishment of paternity services;

(B) That if legal proceedings for adoption of the child are pending, or if the child's mother (or legal guardian if a separate party) alleges that the child was conceived due to rape or incest, the Child Support Program (CSP) Director will determine whether establishing paternity is in the best interests of the child, on the basis of the responses the CSP Director receives to the written notification;

(C) That a copy of any response to the notification the CSP Director receives will be sent to the self-alleged father, and that the self-alleged father will then have an opportunity to respond to the allegations. The administrator shall ensure that the address of the mother and/or guardian is deleted from any written material it sends to the self-alleged father;

(D) The factors the CSP Director will consider, set out in section (5) of this rule, in determining whether establishing paternity would be in the best interest of the child;

(E) That the mother, legal guardian, and adoption agency or the Department of Human Service child welfare program if appropriate under this rule, has 15 days to respond in writing to the written notification;

(F) That the self-alleged father has 15 days to respond to an allegation or response received by the CSP Director;

(G) That if any of the parties listed in paragraph (D) or (E) of this subsection does not respond to the written notice or allegation within 15 days, the CSP Director shall make its determination based on the responses it does receive;

(H) That if the CSP Director determines that establishing paternity would not be in the best interests of the child, this decision:

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(i) Means only that the administrator will not pursue action to establish paternity; and

(ii) Does not preclude the self-alleged father from pursuing establishment of paternity on his own, without the assistance of the administrator.

(5) In any case where legal proceedings for adoption of the child are pending, or where the child was conceived due to alleged rape or incest, the CSP Director shall be responsible for determining whether action to establish paternity would be in the best interests of the child.

(a) If the CSP Director determines that action to establish paternity would not be in the best interests of the child, the administrator shall take no further action to establish paternity for the self-alleged father;

(b) A signed written statement from the mother or legal guardian of the child, stating that the child was conceived as a result of rape or incest, shall be sufficient reason for the CSP Director to determine that establishing paternity would not be in the best interests of the child, unless such statement is disputed or denied by the self-alleged father, subject to the following:

(A) If the self-alleged father does not respond to the copy of the allegation or response the CSP Director receives as provided in section (4) of this rule, the CSP Director shall make its determination by default based on the mother's or legal guardian's statement;

(B) If the self-alleged father does respond and acknowledges that the child was conceived by rape or incest, the CSP Director shall determine that establishing paternity would not be in the best interests of the child;

(C) If the self-alleged father does respond and denies that the child was conceived by rape or incest, the CSP Director shall make an administrative decision regarding whether or not the administrator shall pursue action to establish paternity. The CSP Director shall consider factors including, but not limited to:

(i) Whether a police report was filed;

(ii) Whether the self-alleged father was convicted or acquitted of rape or incest charges;

(iii) Whether other persons have information that the child was conceived due to rape or incest;

(iv) Any other factors known or provided to the CSP Director that would support or refute the veracity of the rape or incest allegation;

(v) Whether establishing paternity would be in the best interest of the child, considering the factors listed in subsection (c) of this section;

(vi) The CSP Director's decision in this matter shall be limited to only whether the administrator shall pursue action to establish paternity, and shall in no way be construed or intended as a determination or accusation of whether the self-alleged father is in fact guilty or not guilty of rape or incest;

(c) When the CSP Director finds that legal proceedings for adoption of the child are pending, the CSP Director shall consider the following factors in determining whether establishing paternity would be in the best interests of the child:

(A) The nature of the relationship or contacts between the child and the self-alleged father. This determination may consider whether the child has lived with the self-alleged father or has had frequent visitation with the self-alleged father, thereby establishing a substantial parent-child relationship;

(B) The degree of parental commitment by the self-alleged father to the child. This determination may consider whether the self-alleged father has attempted to stay in contact with the child, and if such attempts would continue or increase in the future;

(C) The degree to which the self-alleged father has contributed or attempted to contribute, consistent with his ability, to the support of the child. This determination may consider the nature and extent of such support, and if such support would continue or increase in the future;

(D) If there is a legal relationship between the child and the self-alleged father, or if there has been an attempt to establish such a legal relationship through filiation proceedings, custody actions, voluntary acknowledgment of paternity, or similar actions. This determination may consider whether the self-alleged father has had an opportunity to establish a legal relationship prior to the initiation of adoption proceedings;

(E) Whether good reasons exist that would excuse the self-alleged father's failure to establish a relationship, or stay in contact with the child, or contribute to the support of the child, or attempt to establish a legal relationship with the child. Such reasons may include, but are not limited to, the self-alleged father's late awareness of the mother's pregnancy or of the child's birth.

(6) Absent judicial review, the decision of the CSP Director shall be final with regard to any responsibility of the administrator to pursue establishment of paternity.

(7) No provision of this rule shall be construed as prohibiting the self-alleged father from pursuing establishing paternity on his own, without the assistance of the administrator.

(8) If the CSP Director determines (when a determination by the CSP Director is necessary under this rule) that the administrator may pursue action to establish paternity at the request of a self-alleged father, or if the administrator does not receive a written assertion requiring such a determination by the CSP Director under this rule, the administrator shall proceed on the case as follows:

(a) The administrator shall make diligent efforts to provide the mother of the child, unless she is deceased, with actual notice of the action to establish paternity. Notice shall be by personal service upon the mother. Diligent efforts shall include mailing of the notice or petition and summons by first class mail to all reasonably known recent addresses with a request that the mother acknowledge service on the form provided and also mailing the same notice to one or more of the maternal grandparents, if known, addressed to them individually and requesting that they forward the notice and acknowledgment form to the mother;

(b) Notwithstanding the requirement of subsection (a) of this section, no action to establish paternity under this section shall be delayed more than 60 days from the self-alleged father's initial request because of the enforcing agency's inability to provide actual notice to the mother of the child or children;

(c) If the mother of the child or children cannot be served with notice of the action or if the mother is deceased, the enforcing agency shall take no order establishing paternity without parentage tests which fail to exclude the self-alleged father, and with a cumulative paternity index of at least 99;

(d) In any action to establish paternity in which the administrator cannot serve the child's mother, or when the mother is deceased, the administrator shall request that the court appoint a willing, qualified and suitable person to be a guardian ad litem for the child. If no relative or other person agrees to such appointment, the administrator shall request that an attorney be appointed for this purpose;

(e) When an order establishing paternity has been taken in accordance with this section without service of the notice or petition and summons on the mother, the administrator shall mail a copy of the final order to the mother by first class mail to the most recent addresses of record in the case record, the Department of Human Service's TANF files and Motor Vehicles Division files marked please forward, address correction requested. In addition to such mailing, the administrator shall for a period of six months from the date of the final order, continue attempts to locate the mother and personally serve her with a copy of the final order establishing paternity.

(9) All other provisions of this rule notwithstanding, the administrator shall not require the child's mother (or other custodial adult) to cooperate with efforts to establish paternity, and the administrator shall assess no penalty for not cooperating, in any case where a finding that the child's mother (or other custodial adult) is exempt from cooperating due to good cause, pursuant to federal law at 42 U.S.C. 654(a)(29) and 42 U.S.C. 666(a)(5)(B)(i), is either currently in effect or is pending. In any such case, the administrator need not proceed further on behalf of the self-alleged father if it determines that there is no further effective action the administrator can take on behalf of the self-alleged father.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 23-1993, f. & cert. ef. 10-19-93; AFS 3-1994, f. & cert. ef. 2-1-94; AFS 12-1996, f. & cert. ef. 4-1-96; AFS 9-1998, f. 5-29-98, cert. ef. 6-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0068; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3080

137-055-3100

Order Establishing Paternity for Failure to Comply with an Order for Parentage Testing

(1) In an action to establish paternity initiated pursuant to ORS 416.415, the administrator may serve simultaneously the Notice and Finding of Financial Responsibility and an administrative order for parentage tests.

(2) An administrative order for parentage tests may require either the mother of the child(ren) in question or a person who is a possible father of the child(ren) to file a denial of paternity in order to receive a parentage test, or it may allow testing prior to a the party filing a responsive answer to the allegation of paternity.

(3) The administrator shall enter an order establishing paternity based upon a party's failure to appear for parentage testing, provided that all parties have been served with a Notice and Finding of Financial Responsibility and with an order requiring parentage tests if:

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(a) The mother of the subject child(ren) has named the male party who failed to appear for parentage tests in a sworn statement as a possible father of the child(ren) in question; or

(b) A male party has claimed in a sworn statement to be the father of the child(ren) in question and the mother and her child(ren) have failed to appear for such tests.

(4) An order establishing paternity based on a failure to submit to parentage tests may be entered:

(a) Whether or not a responsive answer has been filed; and

(b) Whether or not corroboration exists to support a sworn statement of a party naming a male party as a father or possible father of the child(ren) in question, provided that the male party has either:

(A) Been named in a sworn statement by the mother as a possible father of the child; or

(B) Has named himself in a sworn statement as the father of the child.

(5) The provisions of this rule do not apply to the additional parentage tests described in OAR 137-055-3020(8) through 137-055-3020(11).

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 109.252 & ORS 416.430

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1030; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3100

137-055-3120

Changing Child's Surname on Birth Certificate When Paternity Established

(1) In any action or proceeding by the administrator to establish paternity of a child who was born in Oregon, if either parent wishes to have the child's surname changed on the birth certificate of the child and the other parent agrees, the administrator shall so order and notify the Center for Health Statistics of the Department of Human Services.

(2) If the parents do not agree to change the child's name on the birth certificate and either parent requests that the matter be adjudicated, the administrator shall certify the matter to the appropriate Oregon circuit court pursuant to ORS 416.430(6)(b). If neither parent requests that the matter be adjudicated, the administrator will take no action to change the surname on the birth certificate of the child.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 2-2000, f. 1-28-00, cert. ef. 2-1-008; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1045; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3120

137-055-3140

Reopening of Paternity Cases

(1) When a party claims that a man established as the father of a child in fact is not the biological father of the child, the administrator shall open or reopen the issue of paternity when all of the provisions of subsection (a) through (f) apply:

(a) The administrator initiated the action administratively which established paternity or paternity was established by a signed voluntary acknowledgment in Oregon;

(b) Parentage tests have not been conducted;

(c) The order was entered with the circuit court one year ago or less, or the voluntary acknowledgment as described in ORS 432.287 was filed with the Center for Health Statistics one year ago or less;

(d) Neither party asserts that the conclusive presumption of paternity created by ORS 109.070 applies;

(e) The party applying has completed and returned to the administrator a request for reopening prior to expiration of the one year period;

(f) The administrator has jurisdiction over the parties.

(2) If at any point during the process, the administrator obtains information and verifies that the criteria in section (1)(a), (b), (d), (e) or (f) are no longer met, the administrator will make a determination and will send the affected parties written notification within 10 days of verifying the information.

(3) The party who requested parentage tests shall reimburse the administrator for the costs incurred by the Child Support Program for such tests, unless the male party in question is excluded.

(4) An order establishing paternity shall not be vacated, dismissed or set aside under this rule unless parentage tests exclude the male party in question as the father of the child, or a party fails to comply and the issue of paternity is resolved against that party. The administrator shall not submit for the court's approval, any order granting relief which requires repayment to the debtor of money paid by that debtor under the order.

(5) Any judgment of nonpaternity under this rule shall be by circuit court order.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.443

Hist.: AFS 29-1995, f. 11-6-95, cert. ef. 11-15-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1000; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3140

137-055-3220

Establishment of Past Support Orders

(1) For purposes of this rule the following definitions shall apply:

(a) "Past support" means the amount of child support that could have been ordered based on the Oregon Child Support Guidelines and accumulated as arrears against a parent for the benefit of a child for any period of time during which the child was not supported by the parent and for which period no support order was in effect.

(b) "Supported by the parent" in (1)(a) means payments in cash or in kind in amounts or in-kind value equal to the amount that would have accrued under the Oregon Child Support Guidelines from the non-custodial parent to the custodial parent or other custodial adult for purposes of support of the child(ren).

(c) The Oregon Child Support Guidelines means the formula for calculating child support specified in OAR 137-050-0320 through 137-050-0490.

(2) The administrator may establish "past support" when establishing a child support order under ORS 416.400 through 416.470.

(3) When a non-custodial parent has made payments in cash or in kind to a custodial parent or other custodial adult for the support of the child(ren) during the period for which a judgment for past support is sought, and providing that those payments were in amounts equal to or exceeding the amount of support that would have been presumed correct under the Oregon Child Support Guidelines, no past support shall be ordered.

(4) When such payments as described in (3) were made in amounts less than the amount of support presumed correct under the Oregon Child Support Guidelines, the amount of the past support judgment shall be the correct amount presumed under the Oregon Child Support Guidelines minus any amounts of support paid.

(5) The non-custodial parent must provide evidence of such payments as described in (3) and (4) by furnishing copies of:

(a) Canceled checks;

(b) Cash or money order receipts;

(c) Any other type of funds transfer records;

(d) Merchandise receipts;

(e) Verification of payments from the custodial parent or other custodial adult;

(f) Any other record of payment deemed acceptable by the administrator.

(6) It shall be within the discretion of the administrator to determine whether to accept evidence of such cash or in-kind support payments for purposes of giving credit for them. If either party disagrees with this determination, the support determination may be appealed to an administrative law judge per ORS 416.427.

(7) Past support may not be ordered for any period of time prior to the later of:

(a) October 1, 1995; or

(b) The date of the initiation of IV-D services from any state by application for services; or in case of a mandatory referral based on the receipt of TANF cash assistance, Medicaid, foster care or Oregon Youth Authority services, the date of the referral to the Child Support Program (CSP).

(8) If the support case was initiated from another state, the date of application for services shall be considered to be either:

(a) The date the initiating state requests past support to begin but not before October 1, 1995; or

(b) If the initiating state requests that past support be established for multiple periods of time, the beginning date of the most recent period but not before October 1, 1995; or

(c) If the initiating state does not specify a beginning date for past support, the date of the initiating petition but not before October 1, 1995.

(9) Where CSP services did not produce a support order and CSP services were terminated by the applicant or by the CSP agency per state and federal regulations and subsequently CSP services were initiated again, the administrator shall not establish past support prior to the date of the most recent initiation of CSP services. If an initiating state requests that past support be established for two or more periods of time, past support shall be established only for the most recent period.

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(10) If there is or was a support order in existence in any state for the non-custodial parent to pay support to the obligee for the same child(ren), no order for past support shall be entered for a period of time before entry of the support order already or previously existing.

(11) Where the order to be entered is for past support only and does not include current support and the past support would be owed only to the State of Oregon or another state, the administrator shall not enter an order for past support for a period of less than four months.

(12) Past support shall be calculated per the Oregon Child Support Guidelines and shall use current income for the parties in calculating past support monthly amounts. Parties may rebut use of current income by presenting evidence of income in differing amounts for the months for which past support is being ordered.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.422

Hist.: AFS 28-1995, f. 11-2-95, cert. ef. 11-3-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1010; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3220

137-055-3240

Establishment of Arrears on Oregon Order Support Cases

(1) The administrator shall establish arrears on support cases when the following conditions have been met:

(a) There has been an application for support enforcement services from either party in the case or there has been a mandatory referral for support enforcement services by an order of the court or because TANF cash assistance, Medicaid, foster care or Oregon Youth Authority services have been provided to the family;

(b) There is an Oregon support order or the order from another state has been registered in Oregon;

(c) The administrator has determined that there is a need to establish the arrears balance on the case because:

(A) The administrator has no record or an incomplete accounting case record;

(B) An establishment of income withholding has been requested by an obligor or obligee pursuant to ORS 25.381; or

(C) There is a reason which necessitates that the arrears on the case record be reestablished; and

(D) There has been a request for arrears establishment by a party.

(2) A party requesting establishment or reestablishment of arrears must furnish an accounting that shows the payment history in as much detail as is necessary to demonstrate the periods and amounts of any arrears.

(3) Where arrears had earlier been established, through a process which afforded notice and an opportunity to contest to both parties, the arrears from that period shall not be reestablished except that if interest had not been included in the establishment, interest may be added for that period.

(4) The enforcing agency may establish or reestablish arrears by either:

(a) Use of the judicial process authorized under ORS 25.167; or

(b) Use of the administrative process authorized under ORS 416.429.

(5) Notwithstanding section (4) of this rule, if the arrears to be established are for spousal support arrears or for both child and spousal support arrears, the administrator shall use the process in ORS 25.167.

(6) Upon completion of the arrears establishment process in subsection (4)(a) or subsection (4)(b) of this rule, the case record shall be adjusted to reflect the new arrears amount.

(7) Notwithstanding any other provision of this rule, arrears may be established when:

(a) There is an Oregon court order and less than 180 days have elapsed since the date the order was entered; and

(b) Notice has been sent to both parties that the Child Support Program will enter arrears established in the order and arrears for the period from the effective date of the order to the date of the notice if neither party requests within the 60-day period following the date of the notice that the arrears be established under the process found in ORS 25.167 and 416.429.

(8) If neither party under section (7) of this rule responds within 60 days of the notice to request arrears be established under the process found in ORS 25.167 and 416.429, the amount of the arrears under section (7) of this rule shall be the amount of arrears added to the case record.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.015

Hist.: AFS 5-1996, f. 2-21-96, cert. ef. 3-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0047; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-

25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3240; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3240

137-055-3260

Correction of Mistakes in Orders

(1) Clerical mistakes in final orders issued by the administrator pursuant to ORS 416.400 to 416.470 and errors therein arising from oversight or omission may be corrected by the administrator at any time within 60 days of the issuance of the order. The corrected order shall be clearly marked "Corrected Order" and shall contain notice to the parties of appeal rights as provided by ORS 416.427.

(2) The corrected order shall be served on the parties by regular mail at the address of record established for the proceeding under which the order being corrected was issued, or at any other address which a party has subsequently provided to the administrator.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.400 - ORS 416.470

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1050; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3260; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3260

137-055-3280

Administrative Law Judge Order Regarding Arrears

(1) If a parent objects to the enforcement of an order under ORS 416.429 on the basis that the amount of the arrears are incorrect, an administrative law judge may determine the correct amount of the arrears, if any, and issue an order enforcing both the newly determined arrears and the current support obligation.

(2) The amount of arrears as stated on the Notice of Intent to Enforce an Order issued under ORS 416.429 shall be presumed to accurately state the arrears. The presumption may be rebutted by evidence of errors in calculation, by a showing that payments were made for which credits were not appropriately recorded, or any other evidence which demonstrates that the arrears amount sought is incorrect.

(3) An administrative law judge may enter an order providing for the enforcement of current support only, pending further proceedings to determine the correct amount of arrears.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.429

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1060; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3280; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3280

137-055-3290

Entry of Contingency Orders When Child Out of Care

Whenever a notice and finding of financial responsibility is issued pursuant to ORS 416.415 for a child in the care and custody of the Department of Human Services, or a youth offender or other offender in the legal or physical custody of the Oregon Youth Authority, and the child leaves care or custody prior to entry of a final order, the administrator or an administrative law judge shall:

(1) Enter a final order, in accordance with ORS 416.417, which is contingent upon the child, youth offender or other offender residing in a state financed or supported residence, shelter or other facility or institution; and

(a) If the administrator is entering the final order, sign a certificate establishing the period of non-residency and satisfying the order for the period of non-residency; or

(b) If an administrative law judge is entering the final order, advise the administrator that the child is no longer in care or custody of the Department of Human Services or Oregon Youth Authority.

(2) Upon receipt of information from an administrative law judge that a child is no longer in care or custody of the Department of Human Services or Oregon Youth Authority, if appropriate, the administrator shall sign a certificate establishing the period of non-residency and satisfy the order for the period of non-residency.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.417

Hist.: SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3290; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3290

137-055-3300

Special Circumstances Regarding Incarcerated Obligors

(1) For purposes of establishing or modifying a support order, the following definitions apply:

(a) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined

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under a court order, and includes but is not limited to a youth correction facility.

(A) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental defect;

(B) "Correctional facility" includes alternative forms of confinement, such as house arrest or confinement, where an obligor is not permitted to seek or hold regular employment.

(b) "Incarcerated obligor" means a person who:

(A) Is or may become subject to an order establishing or modifying child support; and

(B) Is, or is expected to be, confined in a correctional facility for at least six consecutive months from the date of initiation of action to establish a support order, or from the date of a request to modify an existing order pursuant to this rule.

(2) For purposes of computing a monthly support obligation for an incarcerated obligor, all provisions of the Oregon child support guidelines, as set forth in OAR 137-050-0320 through 137-050-0490, shall apply except as otherwise specified in this rule.

(3) The administrator shall not initiate an action to modify a support obligation because of incarceration unless the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, and a party to the current order has requested a modification due to incarceration.

(4) The incarcerated obligor's income and assets are presumed available to the obligor, unless such income or assets are specifically restricted, assigned, or otherwise inaccessible pursuant to state or federal laws or rules regarding the income and assets of incarcerated obligors.

(5) If the incarcerated obligor has gross income less than \$200 per month, the administrator shall presume that the obligor has zero ability to pay support.

(6) An order entered pursuant to ORS 416.425 and this rule, that modifies a support order because of the incarceration of the obligor, is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration.

(a) An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration;

(b) Nothing in this rule precludes an obligor from requesting a modification based on a change of circumstances, pursuant to OAR 137-055-3420.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 416.425(9)

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0078; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3300; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03

137-055-3340

Establishment or Modification of Health Care Coverage

(1) For the purposes of establishing or enforcing medical support, the following definitions apply:

(a) "Accessible" means:

(A) A health benefit plan does not have service area limitations or the health benefit plan provides an option not subject to service area limitations; or

(B) A health benefit plan has service area limitations and the child lives within 30 miles or 30 minutes of a primary care provider under the plan.

(b) "Reasonable in cost" means:

(A) Health care coverage is available to the obligor through employment related or other group health insurance;

(B) The obligor's share, if any, of premiums for the coverage does not make the application of the formula established under ORS 25.275 unjust or inappropriate. Inclusion of premiums make the application of the formula unjust and inappropriate if:

(i) The amount that would be withheld by an employer in compliance with a withholding order issued for the monetary support and a medical support notice would exceed 50% of the obligor's net disposable income (as defined in ORS 25.010); or

(ii) Other compelling factors in the case support such a finding.

(c) "Satisfactory health care coverage" means coverage provided under a health benefit plan, other than Medicaid or the Oregon Health Plan, that at a minimum includes emergency care, inpatient and outpatient hospital care, physician services, whether provided within or outside a hospital setting, and laboratory and X-ray services.

(2) In any action to establish or modify an Oregon child support order when support enforcement services are being provided under ORS 25.080, the administrator shall seek an order requiring the obligor to provide satisfactory health care coverage unless the administrator find that:

(a) The obligee has elected to provide and is providing health care coverage for the child; or

(b) The obligor cannot provide satisfactory health care coverage that is reasonable in cost and accessible to the child.

(3) If the administrator finds that the obligor cannot provide satisfactory health care coverage that is reasonable in cost and accessible to the child, the administrator shall include in the order a provision requiring the obligor to provide health care coverage when such coverage becomes available.

(4) To ensure that the information necessary to calculate an appropriate order is made available the administrator shall, at a minimum, take the following actions:

(a) Attempt to contact the obligor or obligee, or any current employer of the obligor or obligee to verify earnings. Attempt to verify the availability and cost of health care coverage for the child(ren) included in the order; and

(b) Submit with the petition, contested case notice, or motion served on the parties, a document designed to obtain information regarding the income, availability of health care coverage for the child(ren) included in the order, and other factors which may affect the amount of child support ordered. The document shall include:

(A) A notice to any obligee who has not assigned child support or medical support to the state that the obligor will be ordered to provide satisfactory health care coverage for the child unless the obligee elects to provide satisfactory health care coverage and provides proof of such coverage. The notice shall further state that the amount of monetary support may be decreased by a pro rata share if the obligor provides health care coverage, or increased by a pro rata share if the obligee provides health care coverage;

(B) A notice stating that when child support or medical support is assigned, unless the child(ren) already have health care coverage other than Medicaid, the administrator will seek an order requiring the obligor to provide satisfactory health care coverage, and that the support order entered may be reduced by the amount of the obligee's pro rata share of the cost of enrolling the child(ren) in a health benefit plan.

Stat. Auth.: Sec. 3, ch. 637 OL 2003 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 3 ch. 637 OL 2003

Hist.: AFS 25-1993, f. 10-27-93, cert. ef. 11-4-93; AFS 28-1994, f. & cert. ef. 12-14-94; AFS 25-1995, f. 10-12-95, cert. ef. 10-15-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0062; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3340; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3340

137-055-3360

Entering of Administrative Orders

An administrative order under ORS 416.400 to 416.470 must be entered in accordance with the requirements of this rule:

(1) If the administrative order establishes support or paternity and the child is not residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417), the order must be entered in the circuit court in the county in which the child, or either parent of the child, resides.

(2) If the administrative order establishes support or paternity and the child is residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417) or resides out of state, the order must be entered in the circuit court in the county in which the obligor resides.

(3) If the administrative order is one that modifies an underlying judicial order or if there is any previous Oregon order entered in circuit court, the order must be entered in the circuit court in the same county as the underlying judicial order.

(4) Notwithstanding any other provision of this rule, nothing in this rule precludes filing liens in other Oregon counties pursuant to ORS 18.320 or transferring judgments pursuant to ORS 25.100 or 107.449.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.440

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1091; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3360

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137-055-3400

District Attorney Case Assignment for Modification or Suspension of Support

(1) The purpose of this rule is to provide criteria for determining which Oregon District Attorney shall have responsibility for initiating action to review and modify an Oregon court order or decree, or administrative order, requiring payment of child support. This rule applies only when both of the following conditions exist:

(a) An Oregon District Attorney has responsibility for providing support enforcement services under ORS 25.080; and

(b) Either of the following is true:

(A) The obligor or obligee has requested a review and modification, as provided in OAR 137-055-3420, for purposes of changing the amount of the monthly support obligation; or

(B) The obligor is presumed entitled to a suspension of the support obligation as a recipient of certain cash assistance, as provided in ORS 25.245.

(2) For purposes of this rule, the following definitions apply:

(a) "Requesting party" means the party requesting the district attorney to review and modify the support obligation;

(A) The requesting party may be either the obligor or the obligee;

(B) An obligor deemed presumptively eligible for a suspension under ORS 25.245 shall be considered the "requesting party";

(b) "Non-requesting party" means whichever party, either the obligor or the obligee, that is not the requesting party as defined in (2)(a), above.

(3) In any case where there are arrears, the district attorney responsible under OAR 137-055-2040 for enforcing the case shall, if the order is in another Oregon county, transfer in the order for review and modification under ORS 25.100.

(4) In any case where there are no arrears:

(a) If both the obligor and obligee reside in the same Oregon county, but the order is in another county:

(A) The district attorney for the county of residence of the obligor and obligee shall be responsible for review and modification action;

(B) The district attorney for the county of residence may transfer the order in for review and modification under ORS 25.100, as the county of residence for the non-requesting party.

(b) If either the obligor or obligee reside in the same Oregon county that is the county of the order, the district attorney for that county shall be responsible for review and modification action;

(c) If the order, the requesting party, and the non-requesting party are all in different counties:

(A) If the district attorney for the county of the requesting party has previously transferred the order to the requesting party's county for enforcement, the district attorney for the enforcing county shall be responsible for review and modification action;

(B) If the case is not currently open as an enforcement case under ORS 25.080, or if the district attorney for the requesting party's county has never transferred the order for enforcement:

(i) That district attorney shall refer the requesting party to the district attorney for the county of the order;

(ii) The district attorney for the county of the order shall then be responsible for review and modification action;

(C) If the case is currently open as an enforcement case under ORS 25.080:

(i) The district attorney for the enforcing county shall transfer the enforcement case to the district attorney for the county of the order;

(ii) The district attorney for the county of the order shall then be responsible for review and modification action;

(iii) Once the review and modification is completed, the district attorney for the county of the order shall transfer the enforcement case back to the proper enforcement county under OAR 137-055-2040.

(5) If the requesting party does not reside in Oregon, and regardless of whether the case has arrears or not:

(a) If the requesting party's case is already being enforced, the administrator shall advise the requesting party to direct the request to the child support program in that other state. The other state's child support program may then ask the administrator to pursue action under appropriate state and federal statutes;

(b) If the requesting party's support case is not being enforced under the child support program in another state, the administrator shall handle the request under sections (3) and (4) of this rule.

(6) If the non-requesting party does not reside in Oregon, the district attorney shall handle the request under sections (3) and (4) of this rule.

(7) The Matrix set out in Table 1, is included in this rule as an aid, and incorporates preceding sections of this rule: [Table not included. See ED. NOTE.]

(8) All functions and responsibilities assigned to Oregon District Attorneys under this rule shall also be considered assigned to the Division of Child Support (DCS), for those counties where DCS has assumed responsibility from the district attorney for providing support enforcement services.

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

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080, ORS 25.287

Hist.: AFS 33-1992, f. 11-17-92, cert. ef. 12-1-92; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0074; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3400; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3400

137-055-3410

Modification v. Notice and Finding of Financial Responsibility

(1) When the administrator is providing services pursuant to ORS 25.080, the provisions of this rule apply in any case involving the same parties where an existing order:

(a) Is silent regarding support;

(b) Finds that the support obligation is zero;

(c) Finds that support should be determined at a later date;

(d) Finds that support should not be ordered;

(e) Orders medical only; or

(f) Terminates support.

(2) If the provisions of subsection (1)(a) apply, the administrator shall issue a notice and finding of financial responsibility which includes past support.

(3) If the provisions of subsections (1)(b), (c), (d) or (e) apply, the administrator shall issue a modification pursuant to ORS 107.135 or 416.425.

(4) If the provisions of subsection (1)(f) apply, the administrator shall issue a notice and finding of financial responsibility which may include past support. The administrator may consider the circumstances underlying the termination of support in setting the amount of past support.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080, ORS 107.135, ORS 416.415, ORS 416.422 & ORS 416.425

Hist.: DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03

137-055-3420

Periodic and Substantial Change in Circumstance Review and Modification of Child Support Award Amounts

(1) For the purposes of this rule, the following definitions shall apply:

(a) "Determination" means an order resulting from a periodic review which finds that the current order of support is in "substantial compliance" with the Oregon guidelines.

(b) "Guidelines" means the guidelines, the formula, and related provisions in OAR 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support award amount; and

(B) The need to provide in the order for the child's health care needs through medical insurance coverage or other means, not to include Medicaid, regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support award amount as calculated using the guidelines.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program shall notify annually the obligor and obligee of their right to request a review of the amount of support ordered.

(3) The purpose of such review is to determine whether the current child support award should be modified to assure substantial compliance with Oregon's child support guidelines.

(4) Such review shall consist of seeking information from all parties and from searching computerized records and other sources as appropriate. The administrator may use a court or administrative hearing process or discovery process in conducting the review, when necessary, to obtain adequate evidence or sworn testimony from any party in order to complete the review.

(5) Unless there is a current assignment of support rights and the Department of Human Services or the Division of Child Support has deter-

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mined that a review would not be in the best interests of the child, which is defined as "good cause" in accordance with OAR 461-120-0350, the administrator shall, on the request of any party, initiate a periodic review no sooner than 24 months after the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted. Notwithstanding this section, a review may be conducted based upon a change of circumstances sooner than 24 months pursuant to section (10) of this rule.

(6) The administrator shall complete the determination that the order is in substantial compliance with the guidelines or complete the modification of the existing order within 180 calendar days of receiving a written request for a review, or locating the non-requesting parent, if necessary, whichever occurs later. For a change of circumstances modification, a written request means the requesting party has provided the documentation specified in subsection (10)(d) of this rule. For a periodic review, a written request means any written request from a party.

(7) The administrator is responsible for conducting a review in this state or for requesting that another state conduct a review. Pursuant to the provisions of ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(8) Within 15 calendar days of a party's request for a periodic review or a request for a modification based upon a change of circumstances, the administrator shall determine in which state the review will be sought. The administrator is limited by the interstate provisions of ORS 110.300 through 110.441 in making this determination, including:

(a) If the controlling order is an Oregon support order and the obligor, obligee and child reside in this state, Oregon shall be the reviewing state.

(b) If the controlling order is an Oregon support order and one of the parties or the child resides in this state, Oregon shall be the reviewing state.

(c) If the child or a party is subject to the personal jurisdiction of this state and all the parties have filed a written consent in the state which issued the order for the Oregon tribunal to modify the order, Oregon shall be the reviewing state.

(d) If the administrator has registered another state's order for enforcement and none of the parties or the child resides in the state which issued the order, the resident state of the non-requesting party shall be the reviewing state.

(9) If none of the conditions in sections (8)(a) through (8)(c) of this rule apply and the administrator determines that the reviewing state is not Oregon, it shall proceed to:

(a) Determine and obtain the information needed by the reviewing state to permit review;

(b) Complete the federal, standardized interstate transmittal form;

(c) Transmit the documents in paragraphs (a) and (b) of this subsection within 20 calendar days of receipt of those documents to the reviewing state;

(d) If the reviewing state is currently providing interstate services for Oregon on this case, the documents shall be transmitted to the local office or agency working the case; and

(e) If the request is the first contact with the reviewing state on this case, the request must be sent to the interstate central registry in the reviewing state.

(10) The administrator shall conduct a review based upon a change of circumstances request for modification only when:

(a) Oregon has jurisdiction to modify;

(b) The existing order of support was entered not less than 60 days prior to the date the administrator receives a request for modification services based upon a change of circumstances, except for those cases where a change of custody is the reason for the change in circumstance modification;

(c) At least one of the following criteria are met:

(A) A change in the physical custody of the child(ren) has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(D) Veteran's benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before October 23, 1999;

(E) The obligated parent has been incarcerated after the current order was entered, as defined in and pursuant to OAR 137-055-3300; or

(F) The needs of the child have changed; and

(d) The requesting party:

(A) Completes a request for modification based upon a change of circumstances;

(B) Pursuant to ORS 416.425(6), provides appropriate documentation for the criteria in subsection (c) of this section showing that a change of circumstances has occurred; and

(C) Completes a Uniform Income Statement or Uniform Support Affidavit.

(e) If the conditions in section (10)(a) through (10)(d) of this rule have not been met or the presumed correct child support award amount under the child support guidelines calculated as the result of a review indicates that the current support order is in substantial compliance, the administrator shall notify the requesting party in writing within 30 days that:

(A) The administrator denies the request for the filing of a motion for modification; and

(B) The party may use a motion for modification as provided for in ORS 416.425. The administrator shall advise the party on how to obtain the Oregon Judicial Department packet which has been prescribed for this purpose.

(11) Upon receipt of a written request for a review, the administrator shall notify the non-requesting party of the review in writing and provide a copy of the notice to the requesting party. The notice shall advise the obligor and obligee:

(a) Of the opportunity to provide information, with regard to themselves and the other party if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator shall consider written information received from any party prior to calculating the presumed correct amount of support;

(c) That the administrator shall not conduct a review or calculate a presumed correct child support award amount until 30 days have elapsed since the date of the notice unless documentation or written information is received from both the obligor and obligee before the 30 days have elapsed; and

(d) That a modification to the support amount shall effect only support owing on or after the date of filing of the determination or motion.

(12) Based upon a periodic review, the administrator shall notify the obligor and obligee in writing of the presumed correct support amount under the child support guidelines. This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines, or a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(b) Shall advise both the obligor and obligee that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed; and

(c) If the administrator uses an administrative determination or motion form, the administrator shall include the request for hearing form for each of the parties.

(13) Based upon a review conducted for a change of circumstances, subject to the conditions set out in section (10) of this rule, the administrator shall:

(a) Notify the requesting party as specified in subsection (10)(e) of this rule if the presumed correct support award amount under the child support guidelines is in substantial compliance with the current support order; or

(b) If the current child support award amount is not in substantial compliance with the child support guidelines, notify the obligor and obligee in writing of the presumed correct support award amount under the child support guidelines. This notification:

(i) Shall be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(ii) Shall advise both the obligor and obligee that each party has 30 days from the date of service of the notice to object to the proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has elapsed; and

(iii) If the administrator uses an administrative motion form, the administrator shall include the request for hearing form for each of the parties.

(14) If a party wishes to object to the proposed determination or modification:

(a) The party shall file a written request for hearing with the administrator or court before the 30 day period has elapsed; and

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(b) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator shall:

(A) Review the case to determine whether an error was made in applying the guidelines or computing the support amount and, if so, notify both parties of the new presumed amount;

(B) Seek a consent order; or

(C) Ensure that the matter is set for hearing if no other resolution is achieved.

(15) If no request for hearing is filed within the 30 day period, the administrator shall docket or file the appropriate determination or modification of the support order.

(16) If a hearing is held on a determination and the administrative law judge makes a finding that the order is not in substantial compliance with the guidelines, the administrative law judge shall enter a modified order with the support amount that does comply with the guidelines.

(17) An order of the administrative law judge may be appealed to the circuit court of the county in which the support order has been entered, docketed or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within 60 days after the order of the administrative law judge has been docketed.

(18) No provision of this rule shall preclude the obligee or obligor from utilizing the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080, ORS 25.287, ORS 107.135 & ORS 416.425

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3420

137-055-3440

Effective Date of Modification Under ORS 416.425

In any proceeding to modify a support order under ORS 416.425, the modification may be effective on or at any time after the date the motion to modify was filed. The date of filing is the date the motion to modify was prepared, if the motion is prepared by the administrator. If the motion is prepared by a person or entity other than the administrator, the date of filing is the date the motion is served upon the administrator as required in ORS 416.425.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.425

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1080; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3440; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3440

137-055-3460

Processing Modifications When Unable to Find a Party

(1) On any Oregon child support case, whenever Oregon law or administrative rule requires the administrator to process a modification of a support order to zero, and a State of Oregon court or the administrator has jurisdiction to modify the support order, the administrator shall proceed even in the event that the administrator cannot locate the obligee.

(2) For purposes of this rule, before the administrator can determine that the obligee cannot be found, the administrator must first submit a request to the State Parent Locator Service of the Division of Child Support and must allow the State Parent Locator Service at least 90 days to verify an address or employer for the party being sought.

(3) When the motion to modify the support order is for a modification to zero because the obligated parent is either receiving certain cash assistance as provided in ORS 25.245, or is incarcerated, or now has physical custody of the child(ren) named in the support order, and the administrator cannot locate the obligee, the administrator shall request authority from the court to serve by other methods as allowed in and pursuant to ORCP 7.D(6).

(4) Provisions in this rule regarding a motion to modify a support order to zero are also applicable to a motion to terminate support or, if the obligor is receiving certain cash assistance as provided in ORS 25.245, to a notice suspending support.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020(9), ORS 25.085, ORS 25.245 & ORCP 7.D

Hist.: AFS 20-1998, f. & cert. ef. 10-5-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1085; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-

03, Renumbered from 461-200-3460; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3460

137-055-3480

Modification of a Support Order to Zero

(1) The administrator may, upon its own initiative, or upon the request of a party, initiate the necessary action to modify a child support obligation to zero when one of the conditions listed in subsections (a), (b), (c), and (d) of this section apply.

(a) The child or children for whose benefit the support was ordered no longer are in the physical custody of the obligee.

(b) The family is reconciled (that is, the obligor, obligee and child or children live together as an intact family).

(c) The obligor is incarcerated and has no known assets or income.

(d) The obligee or beneficiary of the obligee is not receiving TANF cash assistance, foster care or Oregon Youth Authority services and has requested that the administrator modify the support obligation to zero.

(2) No order modifying a support obligation to zero shall be taken ex parte.

(3) Nothing in this rule prohibits the suspension of support accrual under any order for the reason that the obligor receives certain cash assistance as provided in ORS 25.245.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.287 & ORS 416.425

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1070; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3480; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3480

137-055-3490

Suspension of Enforcement When Motion to Terminate is Filed

(1) For purposes of this rule, "credit balance" means that payments received on a support account exceed all amounts owed by the obligor for ongoing and past-due support.

(2) When a motion has been filed to terminate, vacate, or set aside a support order or to modify a support order to zero, the administrator may suspend enforcement of the support order if:

(a) Collection of support would result in the support account accruing a credit balance if the motion were granted; or

(b) The motion to terminate the order or to modify the order to zero was filed on the basis of the obligor having physical custody of the child(ren).

(A) When enforcement is to be suspended under this subsection, the administrator shall send written notice of the proposed suspension to the obligee and shall also send a copy of such notice to the obligor;

(B) Such notice shall advise the obligee that the obligee has 14 days from the date the notice is sent to object in writing to the proposed suspension of enforcement, and that the obligee wishing to object must send the written objection to the entity that sent the written notice to the obligee;

(C) Such notice shall also advise the obligee that the obligee may object only on the basis that the child(ren) is not in the physical custody of the obligor or that the obligee has not consented to the child(ren) being in the physical custody of the obligor;

(D) When an obligee files a written objection under this subsection, the administrator shall not suspend enforcement. However, if the obligee's written objection results in the obligor accruing a credit balance, the provisions of OAR 137-055-6260 shall apply. In addition, the obligee may incur an overpayment under OAR 137-055-6220.

Stat. Auth.: ORS 25.125 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.125(6)

Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0069; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3490; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3490

137-055-3500

Joinder of a New Party to a Child Support Proceeding

(1) In any proceeding under ORS 416.400 to 416.470 to establish or modify a child support obligation, any party may join any other person who has physical custody of a child in the proceeding.

(2) Before a person may be joined as a party, the administrator shall determine who has physical custody of the child. The determination of who has physical custody of a child is not affected by who may have legal custody of the child. A person has physical custody when that person is responsible for the care, control and supervision of the child. The administrator shall make this determination upon reliable objective information including one or more of, but not limited to, the following:

(a) Written agreement of all parties to the proceeding and of the person having physical custody of the child;

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(b) Current school or day care records of the child, indicating the child's name, address and primary caretaker;

(c) Notarized statements by persons who are knowledgeable about the child's primary place of residence and primary physical custodian;

(d) Letters of guardianship or other court records;

(e) Current state or federal agency records.

(3) The administrator shall send written notification of the determination of physical custody and joinder to all parties and the person proposed to be joined as a party. The notice shall inform the parties and the person proposed to be joined that:

(a) A determination of physical custody will result in joining the person with physical custody as a party to the action;

(b) A person who is joined as a party has the rights of a party, including the right to receive current child support;

(c) An objection to the determination of who has physical custody must be made to the administrator in writing within 30 days of the date that the determination was mailed.

(4) The notice described in section (3) may be served on the parties and the person proposed to be a party as part of an action to modify or establish a support order in the same manner that service is required for that action in ORS 416.400 to 416.470. If an action to establish or modify has already been served, the notice of determination of physical custody and joinder shall be sent to the parties and the person proposed to be a party by regular mail at the last known address. If no objection is received within the time allotted in section (3) the person determined to have physical custody of the child, shall be joined as a party to the action.

(5) If a written objection is filed pursuant to section (3) of this rule, the matter shall proceed as follows:

(a) The administrator shall attempt to resolve the dispute with the persons involved and, if the dispute is resolved, issue an order reflecting how the matter is resolved;

(b) If the dispute cannot be resolved, the written objection shall be considered a request for a hearing and the issues of physical custody and joinder shall then be heard and determined by a administrative law judge, pursuant to procedures established under ORS 416.400 to 416.470. The issues of physical custody and joinder may be determined at the hearing to establish or modify a support obligation. The administrative law judge's determination of physical custody and joinder shall be included in the order to modify or establish support and may be appealed pursuant to ORS 416.427;

(c) If the issues of physical custody and joinder are raised for the first time during a hearing to modify or establish support, the administrative law judge has authority to postpone the hearing and to order the administrator to serve a person alleged or claiming to have physical custody of the child. After service is accomplished, the administrative law judge may proceed with the hearing and has authority to make a determination of physical custody in accordance with section (2) of this rule. The administrative law judge's determination of physical custody and joinder shall be included in the order to modify or establish support and may be appealed pursuant to ORS 416.427.

(6) Any person who has been previously joined as a party, pursuant to this rule, shall be removed as a party after the administrator has determined that the child is no longer in the custody of that person. In making this determination, the administrator may use the criteria specified in subsections (2)(a) through (2)(e) of this rule.

Stat. Auth.: ORS 416.455 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 416.407

Hist.: AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1065; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3500; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3500

137-055-3620

Administrative Subpoena

(1) The administrator and child support programs of other states that provide services pursuant to Title IV-D of the Social Security Act may issue administrative subpoenas pursuant to ORS 25.082.

(2) Subpoenas issued by the administrator and child support programs of other states shall be in the form adopted by the United States Department of Health and Human Services for that purpose.

(3) Administrative subpoenas issued under this rule may compel the release of financial records and other information needed to establish paternity or to establish, modify or enforce a support order.

(4) Administrative subpoenas issued under this rule may be served on an individual or on a public or private entity.

(a) A public entity means an agency or office of any federal, state or local government.;

(b) A private entity means any business entity or organization however organized, including all profit and non-profit entities.

(5) Subpoenas issued by the administrator pursuant to this rule may specify a time for compliance of not less than ten working days.

(6) Subpoenas issued pursuant to this rule may be served by certified mail or personal service.

(7) An administrative subpoena issued by the administrator or a child support program of another state may be enforced by an Oregon court or the administrator.

(8) The administrator may enforce a subpoena by:

(a) Imposition of a civil penalty not to exceed \$250 imposed in the manner provided in ORS 183.090;

(b) Application to a court to compel compliance with the administrative subpoena; or

(c) Suspension of a license pursuant to OAR 137-055-3640 if the individual served with the subpoena is a party to a child support or paternity case.

Stat. Auth.: ORS 25.082 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.082

Hist.: AFS 13-1996, f. 4-15-96, cert. ef. 5-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0076; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3620; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3620

137-055-3640

Enforcement of a Subpoena by License Suspension

(1) For the purposes of this rule the following definitions shall apply:

(a) "License" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driving privileges granted by the Department of Transportation under ORS chapter 807 which includes all driving licenses and permits, and all hunting and fishing licenses and tags issued by the Oregon Department of Fish and Wildlife;

(b) "Administrative review" means a review of the obligor's objection to proposed action under this rule performed by the administrator to determine that:

(A) There is not a mistake in identity of the party;

(B) The party has not complied with the subpoena; or

(C) The subpoena was properly served upon the party.

(2) At the discretion of the administrator, the administrator may use the remedy set out in this rule or any other remedy allowable under Oregon law to enforce compliance with a subpoena issued pursuant to OAR 137-055-3620.

(3) When a party to a child support or paternity case has been served with a subpoena pursuant to OAR 137-055-3620 and the time for compliance set out on the subpoena has expired and the subpoenaed party has not complied with the subpoena, the administrator may serve notice to the party that a license or licenses issued to that party will be suspended.

(4) The notice of license suspension shall contain:

(a) The license(s) subject to suspension;

(b) The name of the person whose license is subject to suspension, the child support case number, the social security number, if available, and date of birth, if known;

(c) The date the original subpoena had been served, the deadline the subpoena set for compliance and the documents or information that had been subpoenaed;

(d) The procedure for contesting license suspension and the bases for contesting the suspension. The only bases for contesting the suspension are:

(A) There is a mistake in identity of the party;

(B) The party has complied with the subpoena; or

(C) The subpoena was not properly served upon the party pursuant to OAR 137-055-3620.

(e) A statement that the party has 30 days to contest suspension in writing by requesting an administrative review on a form provided by the administrator;

(f) A statement that if the party provides the information or documents that were originally specified in the subpoena within 30 days of the date of the notice, the license(s) will not be suspended; and

(g) A statement that failure to contact the administrator within 30 days of the date of the notice to either request an administrative review to contest the suspension or to provide the originally subpoenaed information or documents will result in suspension of the license(s).

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(5) If the party contests the suspension of the license(s), the administrator shall conduct an administrative review to determine if the suspension should occur:

(6) If the administrator determines that the suspension of the license should occur, both the obligee and the obligor shall receive written notice of such determination. The notice will include the following:

(a) The basis for the determination;

(b) The right to appeal the determination and a form on which to make the appeal;

(c) The time limit for making an appeal is 14 days from the date of the notice;

(d) That if no appeal of the suspension is received within 14 days, the licensing agency will be notified to suspend the license immediately.

(7) An appeal of the determination in subsection (5) of this rule shall be to an administrative law judge and the suspension of the license is stayed pending the decision of the administrative law judge. The only bases for the appeal are:

(a) There is a mistake in identity of the party;

(b) The party has complied with the subpoena; or

(c) The subpoena was not properly served upon the party pursuant to OAR 137-055-3620.

(8) If the party fails to provide the subpoenaed information or documents or fails to appeal the determination within the time period allowed, or if the administrative law judge affirms the administrative determination, the administrator shall send a notice to the issuing agency to suspend the license. A copy of this order shall be sent to both parties by regular mail.

(9) The notice to the issuing agency to suspend the license shall contain the following:

(a) A statement that a child support or paternity case record is being maintained by the Child Support Program and that the license holder is a party in that case; and

(b) A statement that the holder of the license has failed to comply with a subpoena pursuant to OAR 137-055-3620.

(10) At any time after suspension of the license, the party may request that the administrator conduct a review to determine if the basis for the license suspension continues to exist. The administrator will review the suspension and notify the issuing agency to reinstate the license, when any of the following conditions are met:

(a) The party has furnished the originally subpoenaed information or documents;

(b) The legal action, enforcement action or other case action has been completed and there is no longer a need for the originally subpoenaed information or documents; or

(c) There is no longer a Child Support Program case.

Stat. Auth.: ORS 25.082, ORS 25.750, & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.082 & ORS 25.750

Hist.: AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0077; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3640; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3640

137-055-4040

New Hire Reporting Requirements

(1) Employers with employees who work only in this state or are interstate employers who have designated Oregon as their reporting state with the United States Secretary of Health and Human Services shall transmit information regarding the hiring or rehiring of any employee by:

(a) Mailing or faxing to the Division of Child Support (DCS) a copy of the IRS W-4 Form completed by the newly hired employee; or

(b) Mailing or faxing to DCS a completed form adopted by DCS; or

(c) Sending to DCS a magnetic tape or diskette, as specified by DCS;

or

(d) Any other method approved by DCS.

(2) Reports made under this section must contain the employer's name, address and federal tax identification number and the employee's name, address and social security number.

(3) Reports made by copy of W-4 form or by the form adopted by DCS must be sent to DCS not later than 20 days after the employer hires or rehires the employee. Employers who transmit the reporting data magnetically or electronically must transmit the data within 12 to 16 days of hiring or rehiring the employee.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.790

Hist.: AFS 16-1998, f. 9-16-98, cert. ef. 10-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0236; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4040

137-055-4060

Income Withholding — General Provisions, Requirements and Definitions

(1) OAR 137-055-4060 through 137-055-4280 shall provide for collection of support by means of income withholding, in accordance with ORS Chapter 25 and all other applicable Oregon law, on all support cases being enforced by the administrator. These rules shall apply to the following, independently or combined:

(a) Support owed for any current month;

(b) Arrears amounts; and

(c) Interest on support arrears. However, this subsection shall not be construed as indicating that the administrator has a duty to compute, accrue, or record interest on support cases that are on the Child Support Enforcement Automated System (CSEAS).

(2) For purposes of OAR 137-055-4060 through 137-055-4280, the following definitions shall apply:

(a) "Alternative payment method" means the electronic fund transfer method of paying support that is described in OAR 137-055-5020;

(b) "Best interests of the child" means that requiring payment of support by income withholding would be in the best interests of the child because:

(A) In the preceding twelve months, at least three of the obligor's payments have been received by the Division of Child Support (DCS), as the state disbursement unit, seven or more days after the due date; or

(B) At the end of any month, the obligor owes past-due support, even if the past-due amount is less than the amount of support payable for one month; or

(C) Any other circumstance where the court or administrator determines a risk, based on information provided by the obligee or otherwise discovered, that the obligor will not pay support promptly when due each month.

(c) "Disposable income" means the part of an individual's income that remains after the deduction of any amounts required to be withheld by law, except as provided in subsection subsections (B) or (C) of this section.

(A) Amounts required to be withheld by law includes, but is not limited to, required withholding for taxes and social security;

(B) Any amounts withheld for the following shall not be deducted from the obligor's income when computing disposable income, even if such withholding is required by law or by judicial or administrative order:

(i) Health insurance premiums;

(ii) Spousal or child support.

(C) An obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income withheld. The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and DCS shall not refund to the obligor, on the basis of such claims, any amounts withheld that DCS has already disbursed to the obligee;

(d) "Good cause" for not withholding means a situation that exists when:

(A) A court or the administrator makes a written determination that, and a written explanation in the official record of why, immediate income withholding would not be in the best interests of the child; and

(B) If the case involves the modification of an existing support order, there is proof of timely payment of previously-ordered support and there are no arrears. Timely payment is indicated when the obligor has not previously become subject to initiated income withholding under the existing order.

(e) "Immediate" income withholding means that withholding for support is effective upon entry of the support order, and the order contains a provision requiring income withholding;

(f) "Initiated" income withholding, also known as "automatic" income withholding, means income withholding that shall occur when support arrears have accrued that are at least equal to the amount of support due for one month on the case, regardless of whether or not the support order requires withholding, or that shall occur at the request of any party to the support case;

(g) "Official record" means either:

(A) The court record, in cases where an exception to income withholding is approved during court proceedings; or

(B) CSEAS payment and case record, in cases where an exception to income withholding is approved by the administrator.

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(h) "Order to withhold" means any court order or administrative order, including any notice or order generated by the administrator, that directs a withholder to withhold income pursuant to ORS Chapter 25.

(3) Collection of support by income withholding, pursuant to ORS Chapter 25 and to these rules, is in addition to any other remedy provided by law for the collection of support.

(4) Withholding may be extended to forms of income other than income derived from employment, including but not limited to unemployment compensation, worker's compensation, retirement or pension benefits, and cash dividends from stocks or bonds, as permitted or required under state and federal law.

(5) Disposable income is subject to an order to withhold without the need for any amendment to the support order involved or for any other further action, other than those actions required or permitted under ORS Chapter 25.

(6) Withholding under these rules has priority over any other legal process under Oregon law against the same income, including having priority over withholding for health insurance.

(7) On any case, the administrator shall take action to assure that withholding promptly terminated in any case where:

(a) There is no longer a current order for support and all arrears have been paid or satisfied; or

(b) The obligor requests termination and withholding has not been terminated previously and subsequently initiated, and the obligor meets the conditions for an alternative payment method set forth in OAR 137-055-4080.

(8) DCS shall promptly refund, to the obligor involved, any and all amounts which have been erroneously withheld due to an error by the administrator.

(9) All support orders issued or modified by the administrator shall include a provision requiring the obligor to keep the administrator informed of:

(a) The name and address of the obligor's current employer;

(b) Whether or not the obligor has access to health insurance coverage at reasonable cost, and if so, the health insurance policy information.

(10) If an obligor changes employment within Oregon when a withholding is in effect, the administrator shall, upon learning the identity and location of the new employer, issue a new order to withhold to the new employer in accordance with OAR 137-055-4180.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.372 - ORS 25.427, ORS 656.234, ORS 657.780 & ORS 657.855
Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 12-1994, f. 6-28-94, cert. ef. 7-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0175; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4060

137-055-4080

Immediate Income Withholding and Exceptions

(1) When any support order is entered or modified, the order shall require the obligor to pay support by income withholding, unless an exception has been allowed under section (2) of this rule. For purposes of this rule, such withholding constitutes immediate income withholding as defined in OAR 137-055-4060(2).

(2) At entry or modification of a support order or when income withholding has been commenced under this rule, the obligor or obligee may request that withholding not be begun or be discontinued, and an exception to withholding may then be allowed, if the following requirements are met:

(a) All arrears are paid in full;

(b) The obligor has not previously been granted an exception from withholding; and,

(c) Either of the following:

(A) A court or the administrator makes a written finding that there is good cause not to require withholding, and enters a written explanation of this finding on the official record, as defined in OAR 137-055-4060(2); or

(B) The obligor and obligee sign a written agreement for an alternative payment method, subject to the following requirements:

(i) The written agreement must be in accordance with OAR 137-055-4120(2), including a requirement that the obligor pay support by means of the electronic fund transfer (EFT) payment method described under OAR 137-055-5020.

(ii) If support is assigned to the State of Oregon, the state must also be a party to the written agreement. The Division of Child Support shall have authority to approve or disapprove the agreement on behalf of the State.

(iii) The administrator shall enter the written agreement into the official record, as defined in OAR 137-055-4060(2).

(3) Notwithstanding any other provision of this rule, when all child support is assigned to the State of Oregon while a child is in state care or custody, the administrator, the Department of Human Services or the Oregon Youth Authority will grant an exception from immediate income withholding when:

(a) The obligor requests such exception in writing and pays to DCS all past-due amounts that have accrued under the order; or

(b) The state has entered into a written alternative payment agreement with the obligor pursuant to OAR 137-055-4130.

(4) When an exception is granted under this rule:

(a) For an existing income withholding order, the administrator shall take the appropriate steps to suspend the withholding and generate written notification to the withholder to suspend income withholding.

(b) When an obligor is excepted from withholding prior to the withholder being notified to begin withholding, the administrator shall take the appropriate steps to halt the withholder's order to withhold income.

Stat. Auth.: ORS 25.396, 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.378 & ORS 25.396

Hist.: AFS 7-1994, f. & cert. ef. 4-1-94; AFS 3-1995, f. 1-27-95, cert. ef. 2-1-95; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 3-1995, f. 1-27-95, cert. ef. 2-1-95; AFS 34-1995, f. 11-27-95, cert. ef. 12-1-95; AFS 39-1995, f. & cert. ef. 12-15-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0176; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4080

137-055-4100

Initiated Income Withholding and Exceptions

(1) On any support order entered or registered in Oregon, the obligor shall become subject to "initiated" income withholding, as defined in OAR 137-055-4060(2), when a court or the administrator, whichever is appropriate, determines that both of the following are true:

(a) The amount of past-due support owed by the obligor is at least equal to the amount of the ongoing monthly support obligation on the case; and

(b) Thirty days have expired since the obligor's payment due date for the preceding month.

(2) A court or the administrator shall initiate withholding under section (1) of this rule without the need for a judicial or administrative hearing or for advance notice to the obligor of such withholding. If an obligor wishes to contest an order to withhold that is initiated under section (1) of this rule, the obligor may do so in accordance with and pursuant to OAR 137-055-4160.

(3) When arrears exist and notice of the past-due amount has been given to the obligor, a court, upon application, shall issue a withholding order upon the ex parte request of the obligee or the administrator.

(4) The obligor may initiate a withholding order, ex parte, at any time by motion to the court or by request to the administrator.

(5) If an obligor is not otherwise subject to withholding, a court or the administrator may issue a withholding order at the request of the holder of support rights if, after notice and an opportunity to object has been given to the obligor, the court or the administrator makes a finding that issuing a withholding order would be in the best interests of the child as defined in OAR 137-055-4060(2). Such finding is subject to the following:

(a) The obligor must be given advance written notice that the obligor may object in writing to the withholding within 14 days of the date of such notice, and the obligor either:

(A) Does not object in writing to the withholding within 14 days of the date this advance notice was sent; or

(B) Does object, and the court or the administrator finds that income withholding would be in the best interests of the child, as defined in OAR 137-055-4060(2). The court or the administrator shall make this determination within 30 days of receiving the obligor's written objection to the withholding.

(b) If the obligor has been granted an exception to withholding by a court, the holder of support rights who wants withholding must apply for withholding under this section by motion to the court.

(6) Notwithstanding any other provision of this rule, when all child support is assigned to the State of Oregon while a child is in state care or custody, the Division of Child Support (DCS), OYA or the Department of Human Services will grant an exception from initiated income withholding when:

(a) The obligor requests such exception in writing and pays to DCS all past-due amounts that have accrued under the order; or

(b) The state has entered into a written alternative payment agreement with the obligor pursuant to OAR 137-055-4130.

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Stat. Auth.: ORS 25.396, 25.427 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.378, ORS 25.396, ORS 656.234 & ORS 657.780
Hist.: AFS 62-1985(Temp), f. & ef. 10-28-85; AFS 30-1986, f. & ef. 4-1-86; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-035-0049; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 29-1990, f. 12-13-90, cert. ef. 1-1-91; AFS 3-1992, f. 1-31-92, cert. ef. 2-1-92; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0177; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4100

137-055-4120

“Alternative Written Agreement” Exceptions from “Immediate” Income Withholding

(1) The purpose of this rule is to describe the requirements for a written agreement for an alternative method of paying support, as an exception to “immediate” income withholding, when an obligor and obligee want such an agreement as an alternative to the immediate income withholding requirements under OAR 137-055-4080.

(2) For all support cases receiving support enforcement services under ORA 25.080, the alternative arrangement must require that support payments be made through the electronic fund transfer (EFT) payment method prescribed in OAR 137-055-5020. However, when an obligor and/or obligee seek to enter into such an agreement as an alternative to immediate income withholding, the following additional requirements must be met:

(a) Both the obligor and the obligee must sign a written statement in which they agree that the EFT payment method prescribed in OAR 137-055-5020 shall be the alternative method of paying support. However, for any case where support has been assigned to the state, the Department of Human Services, OYA or the Division of Child Support (DCS) has the right to approve, deny, or cancel any such written agreement.

(b) The obligor must then do all of the following:

(A) Complete the process of applying for the EFT payment method with DCS.

(B) Pay, to DCS when due, the amount due for current support each month, until DCS activates the EFT payment method on the case.

(C) Pay to DCS an additional amount sufficient to pay all past-due support, if any, that has accrued under the obligor’s order to pay support, according to the obligor’s case record.

(c) Any such written agreement must be reviewed and entered into the case record by either the appropriate court or the administrator.

(d) The written agreement shall remain in effect regardless of any subsequent modifications to the child support order, provided the obligor pays-off any arrears resulting from the modification within 30 days of when the administrator codes the modification onto the case record, unless a court orders otherwise.

(3) When the obligor and obligee have met all requirements under this rule, the court or the administrator shall grant the exception from income withholding.

(4) In any case where DCS accepts and implements the EFT payment method under this rule, DCS shall:

(a) Distribute funds collected under paragraph (2)(b)(B) of this rule as regular monthly support payments, according to OAR 137-055-6020, until the electronic fund transfer is activated.

(b) Credit all funds collected under paragraph (2)(b)(C) of this rule as payment of arrears on the obligor’s case, and shall distribute such funds according to OAR 137-055-6020.

(5) An exception granted under this rule automatically ends if arrears equal to or greater than one month’s support obligation occurs.

(a) This shall include cases where the arrears result because the obligor’s financial institution refuses to honor an EFT payment, when presented for payment by DCS, due to insufficient funds in the obligor’s account.

(b) The administrator shall send advance written notification to the obligor, as required in OAR 137-055-4140, before terminating the exception and reinstating income withholding.

(6) Notwithstanding any other provision of this rule, when child support is currently assigned to the State of Oregon while a child is in state care or custody, DCS may enter into a written alternative payment agreement with the obligor pursuant to OAR 137-055-4130.

Stat. Auth.: ORS 25.396, 25.427 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.396

Hist.: AFS 24-1991, f. 11-26-91, cert. ef. 12-1-91; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 30-1994, f. 12-29-95, cert. ef. 1-1-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0178; AFS 14-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4120

137-055-4130

Exception to Income Withholding for Child in State Care

(1) Notwithstanding the provisions of OAR 137-055-4200, the state or the obligor may request, orally or in writing, an exception to immediate income withholding as provided in ORS 25.396(2). In order to qualify for an exception to income withholding under this rule, the following criteria must be met:

(a) Child support is currently assigned to the state;

(b) The child(ren) is/are currently in paid state care or custody;

(c) There is evidence that the order to withhold is a barrier to reunification of the family or rehabilitation of the youth or is prejudicial to the obligor’s ability to provide for another child to whom a duty of support is owed; and

(d) The state and the obligor enter into a written alternative payment agreement.

(2) A written alternative payment agreement may provide for a reduced rate of income withholding; payment of the current support order amount or less; terms or conditions that do not require payment; or any combination of the above.

(3) Upon receiving a request for an exception to income withholding, the Division of Child Support (DCS) shall determine if the criteria found in subsections (1)(a), (b), and (c) have been met. If the case qualifies, DCS shall recommend an alternative payment agreement and submit the agreement to the Department of Human Services (DHS) child welfare program or the Oregon Youth Authority (OYA) for approval or denial.

(4) Upon receiving notice of an approval or denial of an alternative payment agreement, DCS will notify the obligor. If the DHS child welfare program or OYA do not respond within 30 days of receiving a recommended alternative payment agreement, the agreement shall be deemed denied.

(a) If the alternative payment agreement is approved, the agreement does not take effect until it has been signed by the obligor and returned to DCS.

(b) If the obligor does not agree with the agency’s denial of an agreement, the obligor may file a grievance with the DHS child welfare program or OYA pursuant to OAR 413-010-0450 or 416-100-0020.

(5) A written alternative payment agreement may terminate and immediate income withholding for the full amount allowable by law may be reinstated, unless the obligor otherwise qualifies for an exception pursuant to OAR 137-055-4080, when:

(a) The child(ren) leave(s) the care or custody of the state agency to which support has been assigned;

(b) According to the case record or as notified by the DHS child welfare program or OYA, the obligor is out of compliance with the agreement; or

(c) The time period covered by the agreement has expired.

(6) If the written alternative payment agreement terminates because the child(ren) is/are out of state care or custody, the state or the obligor may apply for further relief under OAR 137-055-4200(9).

Stat. Auth.: ORS 25.396 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.396

Hist.: DOJ 14-2001, f. 12-28-01, cert. ef. 1-2-02, DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 137-050-0605

137-055-4140

Written Notice to the Obligor of Income Withholding

Whenever an order to withhold is issued on any support case being enforced under ORS 25.080, whether for immediate income withholding under OAR 137-055-4080 or for initiated income withholding under OAR 137-055-4100, the administrator shall send written notice of the order to withhold to the obligor and obligee by regular mail to their last-known addresses.

(1) Such notice shall state the following:

(a) That withholding has commenced;

(b) The amount to be withheld, expressed either as a percentage of income or as a specific dollar amount, whichever is specified in the order to withhold in accordance with OAR 137-055-4200;

(c) The amount of arrears, if any;

(d) That the order to withhold applies to any current or subsequent withholder or period of employment;

(e) The procedures to contest the order to withhold, as specified in OAR 137-055-4160;

(f) That the only basis for contesting an order to withhold is a mistake of fact, meaning an error in the amount due for current support or arrears, or an error in the identity of the obligor;

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(g) The availability of, and requirements for, exceptions to income withholding, as specified in OAR 137-055-4080 and 137-055-4100;

(h) That the obligor has 14 days from the date that income is first withheld, pursuant to the order to withhold, to contest the withholding; and

(i) The actions that will be taken if the obligor contests the withholding, as specified in OAR 137-055-4160.

(2) This notice requirement may be met by mailing a copy of the order to withhold, by regular mail, to the obligor and to the obligee. If this notice requirement is met in this manner, the order must contain all of the information required in section (1) of this rule.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Statutes Implemented: ORS 25.399

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 4-1991, f. 1-28-91, cert. ef. 2-1-91; AFS 29-1992, f. 10-8-92, cert. ef. 11-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0179; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4140

137-055-4160

Contested Income Withholding

(1) An obligor who wants to contest an order to withhold income issued under OAR 137-055-4080 and 137-055-4100 must do so within 14 days from the date that income is first withheld pursuant to the order to withhold. If the obligor is contesting the withholding on the basis of an error in the amount due for current support or arrears pursuant to subsection (2)(a) of this rule, the obligor's contest must be in writing.

(2) The only basis for contesting the order to withhold is a mistake of fact. A mistake of fact means either:

(a) An error in the amount due for current support or for arrears; or

(b) An error in the identity of the obligor.

(3) Payment of all arrears shall not, by itself, be a basis for not implementing withholding.

(4) If the order to withhold income was issued by a court of the State of Oregon, the obligor wanting to contest the order must do so in the court that issued the order to withhold.

(5) If the order to withhold was issued other than by an Oregon court, the obligor may contest the order to withhold to the administrator.

(a) The administrator is not required to provide an opportunity for a contested case administrative hearing under ORS 183.310 to 183.550 or a hearing in court;

(b) If the obligor contests the withholding within 14 days from the date when income is first withheld pursuant to the order to withhold, the administrator shall determine, based on an evaluation of the facts, if a mistake of fact has occurred;

(A) The administrator shall make this determination within 45 days from the date when income is first withheld pursuant to the order to withhold;

(B) If a mistake of fact has occurred based on an error in the identity of the obligor, the Division of Child Support (DCS) shall immediately refund all amounts collected in error under the withholding order to the person who was mistakenly misidentified as being the obligor;

(C) If a mistake of fact has occurred based on an error in the amount due for current support or arrears, DCS shall refund to the obligor only those amounts collected, if any, that exceed the total amount that the obligor owes for current support and arrears as of the day that the administrator has made its determination. If the obligor continues to owe any amount for arrears, the income withholding order shall remain in effect;

(D) The administrator shall notify both the obligor and obligee of this determination and of the right of each to appeal the determination;

(E) Any appeal of the decision of the administrator shall be to the circuit court for a hearing de novo.

(6) If the order to withhold was issued by a court or administrative agency of another state and was received directly by an employer in Oregon, the obligor may contest the order to withhold by either:

(a) Seeking relief from enforcement of the order in the appropriate tribunal of the state that issued the order to withhold, in accordance with the applicable laws of that state; or

(b) Registering the order in Oregon and then seeking relief from enforcement of the order in an Oregon circuit court.

(7) If an obligor contests an order to withhold under sections (5) or (6) of this rule, DCS shall hold any funds collected pursuant to the withholding order, and shall not distribute such funds to the obligee, subject to the following:

(a) If the obligor contests the withholding on the basis of an error in the identity of the obligor, DCS shall hold all payments collected pursuant to the withholding order until the administrator has made its determination;

(b) If the obligor contests the withholding on the basis of an error in the amount due for current and/or past-due support, DCS shall hold all payments collected for past-due support pursuant to the withholding order, except for those amounts the obligor does not contest are owed, until the administrator has made its determination;

(c) Once the administrator has made its determination, and regardless of whether or not the obligor or obligee appeals the determination to the court, DCS shall:

(A) Refund, to the obligor, all amounts so held that are determined to have been collected in error;

(B) Disburse, to the obligee or as otherwise appropriate, all amounts so held that are determined to have been collected correctly.

(8) Neither the initiation of proceedings to contest an order to withhold pursuant to this rule, nor a motion or request to contest an order to withhold, nor an appeal of the decision of the administrator with regard to the obligor's contesting of the order to withhold, shall stay, postpone, or defer ongoing withholding unless otherwise ordered by a court.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.405

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0181; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4160

137-055-4180

Order to Withhold Income

(1) On any support case being enforced under ORS 25.080, the administrator shall serve an order to withhold income upon the appropriate withholder whenever:

(a) The obligor is subject to immediate income withholding and no exception to withholding has been granted, pursuant to OAR 137-055-4080; or

(b) The obligor is subject to initiated income withholding and no exception to withholding has been granted, pursuant to OAR 137-055-4100.

(2) The administrator shall serve the order to withhold income upon the withholder either personally upon the withholder or upon the withholder's agent, an officer of the corporation, bookkeeper, accountant, person responsible for payroll, or local office manager, or by any type of mail which is calculated to give actual notice and is addressed to one of the persons listed above.

(3) The administrator shall not be responsible for initiating service of the withholding order if, prior to initiating service, the administrator receives written notice that service has been completed by another party.

(4) If no payment is received from the withholder within 46 days of the date of Order to Withhold Income, the Child Support Enforcement Automated System (CSEAS) will notify the administrator. The administrator shall then take the following additional action to assure compliance with the Order to Withhold Income:

(a) Telephone or write to the withholder and seek a commitment as to when the withholder will forward payment;

(b) Pend the case for ten days following the date given by the withholder;

(c) If payment is not received by the end of the ten-day pend period under subsection (b), above, or if the withholder otherwise refuses to cooperate, seek a judicial income withholding order in court;

(d) Determine if the employer should be held liable for failure to withhold, pursuant to ORS 25.424 and OAR 137-055-4240.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.378, ORS 25.402 & ORS 25.424

Hist.: AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; AFS 22-1993, f. 10-15-93, cert. ef. 11-1-93; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 7-1995, f. 3-27-95, cert. ef. 4-1-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0183; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4180; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4180

137-055-4200

Income Withholding Limitations and Distribution

(1) When a withholder receives an order to withhold under OAR 137-055-4180, the withholder shall withhold pursuant to the provisions of the order to withhold and of this rule.

(2) Except as provided in section (3) of this rule, no withholding as calculated under this rule, including the withholder's processing fee under OAR 137-055-4260, shall exceed 50 percent of the obligor's net disposable income. This limit applies whenever withholding is implemented, whether by a single order or by multiple orders against the same obligor.

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(3) Notwithstanding any other provision of this rule or of Oregon law and pursuant to ORS 25.387, the administrator or a party holding support rights may file a motion requesting the court to order the withholding of more than the amounts specified under this rule or Oregon law. However, in no case may an order require payment of an amount that exceeds the limits imposed by the Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) The withholder shall withhold from the obligor's monthly disposable income, other than workers' compensation under ORS chapter 656 or unemployment compensation under ORS chapter 657, the amount stated in the order to withhold. On any withholding order sought or issued by the administrator, the administrator shall calculate this amount subject to the following:

(a) If withholding is for current support only, the amount to be withheld is the amount specified as current support in the support order.

(b) If withholding is for current support, and arrears are also due under the order, the amount to be withheld is 120 percent of the amount specified as current support in the underlying support order.

(c) If withholding is only for arrears, the amount to be withheld is whichever of the following is applicable:

(A) The amount of the last-ordered monthly support; or

(B) If there is no last-ordered monthly support amount, the monthly support amount used to calculate the arrears amount specified in the order or judgment for arrears; or

(C) If there is no last-ordered monthly support amount and if no monthly support amount was used to calculate the arrears amount, an amount calculated under the child support guidelines formula established under ORS 25.275. No rebuttals to this calculation may be allowed. For purposes of this paragraph, the administrator shall make this calculation based on:

(i) The obligor's current monthly gross income or, if the obligor's current monthly gross income is not known, on the Oregon hourly minimum wage multiplied by 172 to produce a converted monthly amount; and

(ii) Zero income for the obligee; and

(iii) One joint child, regardless of how many children the parties may actually have.

(D) Notwithstanding the withholding amount determined under paragraphs (A), (B), and (C) of this subsection (c), the withholding must allow the obligor to retain disposable monthly income of at least 160 times the applicable federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) or any future minimum hourly wages prescribed in that section. The withholder may divide this computed amount by the number of pay periods utilized by the withholder in any month to calculate the amount of disposable income per pay period that the obligor must retain prior to withholding.

(5) The amount to be withheld from unemployment compensation payable to a support obligor under ORS chapter 657 is calculated as follows:

(a) If withholding is for a current support order, whether or not arrears exist, the amount to be withheld is the lesser of:

(A) 25 percent of the benefits paid; or

(B) The amount of the current monthly support obligation. The administrator may convert this amount to a percentage to be withheld from each unemployment compensation payment due the obligor, provided that the sum total of all amounts withheld in any month does not exceed 25 percent of the benefits paid or the amount of the current monthly support obligation, whichever is less.

(b) If withholding is for arrears only, the amount to be withheld is the lesser of:

(A) 15 percent of the benefits paid; or

(B) The amount of the last monthly support obligation. The administrator may convert this amount to a percentage to be withheld from each unemployment compensation payment due the obligor for each month, provided that the sum total of all amounts withheld in any month does not exceed 15 percent of the benefits paid or the amount of the last monthly support obligation, whichever is less.

(c) No processing fee shall be charged or collected when withholding is from unemployment compensation.

(6) The amount to be withheld from worker's compensation benefits payable to a support obligor under ORS chapter 656 shall not exceed:

(a) 25 percent of benefits payable to the obligor due to temporary total disability under ORS 656.210 and temporary partial disability under ORS 656.212, or the amount of the current continuing monthly support obligation, whichever is less. However, if there is no current support obligation and the withholding is for arrears only, withholding shall not exceed 15 per-

cent of benefits payable under ORS 656.210 and 656.212 or the amount previously paid as current support, whichever is less.

(b) 25 percent of benefits payable to the obligor in a lump sum award under ORS 656.210 and 656.212 when the award become final by operation of law or waiver of the right to appeal its adequacy.

(c) 25 percent of benefits payable to the obligor due to permanent total disability under ORS 656.206, permanent partial disability under ORS 656.214, or claims where other disposition is determined under ORS 656.236.

(d) 25 percent of benefits payable to the obligor in a disputed claim settlement under ORS 656.289(4).

(7) When the obligor's income is not sufficient for the withholder to fully comply with each order to withhold on the obligor's cases under sections (2) through (6) of this rule, such as may occur when the obligor owes support on more than one case, the withholder shall withhold as follows:

(a) First, withhold the maximum amount allowable under sections (2) through (6) of this rule.

(b) If all the orders to withhold for the obligor are payable through the Division of Child Support (DCS) of the Department of Justice under ORS 25.020, the withholder shall pay all amounts thus withheld to DCS. DCS shall then allocate the amount thus received as set out in OAR 137-055-6020.

(c) If one or more of the orders to withhold require payment other than through DCS, the withholder shall determine priorities for withholding and allocating income withheld on multiple child support cases as follows:

(A) If the total amount thus withheld is not sufficient to pay the current support due on all of that obligor's support cases for which an order to withhold is in effect, the withholder shall pay each case a proportionate share of the total amount withheld. For each case, the withholder shall determine this amount by dividing the amount ordered as current monthly support for that case by the total combined amount ordered as current support on all of the obligor's support cases for which an order to withhold is in effect, and then multiplying the resulting percentage by the total amount withheld.

(B) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to comply fully with the order to withhold on all cases where past-due support is owed, the withholder shall:

(i) Pay, to each case, the amount of support due for the current month.

(ii) Pay the remainder of the amount withheld in equal amounts to each case where arrears are owed. However, no case shall receive more than the total amount of current support and past-due support owed on that case at the time this distribution is made. Further, no case shall receive more than the maximum allowable withholding amount, pursuant to this rule, for that case in any month; any remaining arrearage amount shall be distributed to the obligor's other account(s) pursuant to administrative rules governing distribution.

(C) On all such cases where the order to withhold requires payment through DCS, the withholder shall pay all amounts thus allocated for each such case to DCS.

(8) Notwithstanding any other provision of this rule, when withholding is from a lump sum payment or benefit, including but not limited to retroactive workers' compensation benefits, lump sum retirement plan disbursements or withdrawals, insurance payments or settlements, severance pay, bonus payments or any other similar payments or benefits that are not periodic recurring income, the amount subject to withholding for payment of a support obligation may not exceed one-fourth of the amount of the lump sum payment or benefit. For purposes of this rule, "periodic recurring income" is defined as income that is received at least monthly on a regular basis.

(9) Notwithstanding any other provision of this rule, when withholding is only for arrears assigned to the State of Oregon or another state, DCS may set a lesser amount to be withheld if the obligor demonstrates that the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support, subject to the following:

(a) When an obligor contacts DCS, either orally or in writing, to seek a reduction in withholding under this section, or where DCS becomes aware of circumstances under which these provisions would apply, DCS shall proceed as specified in subsection (b) of this section if both of the following conditions exist:

(A) The income withholding order from which the obligor requests relief is for arrears only.

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(B) All arrears under the income withholding order are assigned to the State of Oregon or another state, with none of the arrears owed to a private party.

(b) If the conditions of subsection (a) of this section are met, DCS may authorize a reduced order to withhold, consistent with the obligor's ability to pay.

(c) Any such reduced withholding is subject to review and modification in one year, or at any other time that the obligor's source of income, or financial or household circumstances, change to the extent that reduced withholding or the payment agreement are no longer appropriate. This provision applies specifically to cases where the obligor's financial situation changes, or where the obligor's duty to support other dependent children has ended.

(10) In any determination of an obligor's disposable income that is subject to withholding, the obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income subject to withholding. The obligor's remaining income shall then be subject to withholding pursuant to the other provisions of this rule.

(a) The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and DCS shall not refund to the obligor, on the basis of such claims, any amounts withheld that DCS has already disbursed to the obligee.

(b) The administrator shall make allowance against the amount of income subject to withholding for the obligor's verifiable costs of doing business, including but not limited to:

(A) Equipment and supplies; and,

(B) Paying the obligor's employees and sub-contractors.

(11) When an obligor is paid more often than once a month, the withholder shall withhold up to the full amount specified in the order to withhold, based on the obligor's scheduled pay periods (including any scheduled draws), as specified in the order to withhold. The amount withheld may not exceed the maximum amount allowed under this rule and under ORS 25.414(8).

(12) An order to withhold income under this rule is not subject to the limitations for garnishment actions under ORS 23.186.

Stat. Auth.: ORS 25.414, ORS 25.427 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.414, ORS 25.417, ORS 656.234, ORS 657.780 & ORS 657.855
Hist.: AFS 73-1985(Temp), f. & ef. 12-3-85; AFS 32-1986, f. & ef. 4-1-86; AFS 38-1987, f. & ef. 8-18-87; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-35-050; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 28-1990(Temp), f. & cert. ef. 12-5-90; AFS 14-1991, f. & cert. ef. 7-15-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 12-1994, f. 6-28-94, cert. ef. 7-1-94; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 27-2000, f. & cert. ef. 11-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0185; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4200; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4200

137-055-4220

Petitioning Court to Order Expanded Income Withholding

(1) Notwithstanding any other provisions of OAR 137-055-4060 through 137-055-4280, the administrator may petition the court to order withholding of more than the amount otherwise authorized under OAR 137-055-4200, pursuant to ORS 25.387 and referred to hereafter in this rule as expanded withholding, provided one of the following are true:

(a) A withholding order currently in place is not collecting at least the full amount due for ongoing support each month, due to the withholding limitations of OAR 137-055-4200; or

(b) The administrator has evidence that the obligor has other income not subject to withholding and current withholding, if any, against the obligor is collecting less than 25 percent of the obligor's total disposable monthly income; or

(c) The obligor owes arrears only, with no ongoing support due on the case, and at least one of the following is true:

(A) Arrears on the case are greater than or equal to the amount of the obligor's last-ordered monthly support obligation times 60; or

(B) Withholding under the limitations of OAR 137-055-4200 will not collect all arrears due on the case before at least a portion of the arrears expire under Oregon law; or

(C) The administrator has evidence that the obligor has other income not subject to withholding and current withholding, if any, against the obligor is collecting less than 15 percent of the obligor's total disposable monthly income.

(2) A contempt of court proceeding, brought by the administrator against an obligor for non-payment of support due under an order and ask-

ing the court for relief, may constitute a petition for expanded withholding under section (1) of this rule.

(3) In no case may an income withholding order require withholding of an amount that exceeds the limits imposed by the federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)).

(4) On any case where no current support or arrears are assigned to the State of Oregon or to any other state, the administrator shall petition for expanded withholding under this rule only upon request of the obligee or obligor.

(5) On any case where current support or arrears are assigned to the State of Oregon or to any other state, the administrator may petition for expanded withholding under this rule either on its own initiative or upon request of the obligee or obligor.

(6) The administrator may request termination of expanded withholding under this rule at any time that none of the conditions listed in this rule apply, or upon request of the obligee.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.387

Hist.: AFS 2-1998, f. 1-30-98, cert. ef. 2-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0186; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4220

137-055-4240

Withholder Responsibilities and Liability on Income Withholding Cases

(1) When a withholder receives an order to withhold pursuant to OAR 137-055-4180, the withholder shall start withholding not later than five days after the first payday following receipt of the order to withhold.

(2) Within seven business days after the date the obligor receives the income from which the withholder has taken a withholding, the withholder shall pay the amounts withheld pursuant to OAR 137-055-4200 to the Division of Child Support (DCS).

(3) On any case where the withholder is required to remit payments to DCS, the withholder:

(a) Shall indicate the obligor's name and case number, and the date the income was withheld, for each payment remitted to DCS;

(b) May, when withholding income from more than one obligor for payment of support, combine amounts withheld from the different obligors into a single payment to DCS, provided that each such payment is accompanied by a list that separately identifies which portion of the combined payment is attributable to each obligor and the obligor's name and case number for each such portion.

(4) If a withholder does not withhold support in any month when required to do so under an order to withhold, the withholder shall provide a written explanation of the reason for not withholding. If the obligor is no longer employed by the withholder, the withholder may include, in the written explanation, the name and address of the obligor's new employer, if known. The withholder is not liable to the obligor for such disclosure.

(5) The withholding order and the withholding required under the order remain in effect and binding upon the withholder until further notice from the court or the administrator.

(6) No withholder who is served with an order to withhold under OAR 137-055-4180 that is regular on its face, and who complies with the terms of the order, is subject to civil liability to any individual or agency for conduct or actions taken in compliance with the order to withhold.

(7) The withholder is liable for all amounts that the withholder fails to withhold or pay as required by the order to withhold or that the withholder withholds or pays in excess of the amount required by the order to withhold. The obligee, the obligor, or the administrator may bring an action against the withholder:

(a) To recover all amounts that the withholder failed to withhold or pay, or withheld or paid in excess of the amount required, pursuant to the order to withhold;

(b) To recover an additional amount as damages, not to exceed the amount referred to in subsection (a) of this section; and

(c) If the failure to withhold or if the excess withholding was willful or the result of gross negligence by the withholder, to have an additional amount imposed as a fine payable to the court, not to exceed \$250 for each occurrence, and to pay reasonable costs of the action including attorney fees.

(8) An employer commits an unlawful employment practice if the employer discharges an employee, refuses to hire an individual, or in any other manner discriminates, retaliates, or takes disciplinary action against an obligor because of the entry or service of an order to withhold income or because of the obligations that the order imposes upon the employer.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

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Stats. Implemented: ORS 25.411, ORS 25.421 & ORS 25.424
Hist.: AFS 7-1992(Temp), f. & cert. ef. 3-25-92; AFS 15-1992, f. & cert. ef. 6-18-92; AFS 19-1992(Temp), f. & cert. ef. 7-15-92; AFS 25-1992, f. 8-24-92, cert. ef. 9-1-92; AFS 7-1993(Temp), f. & cert. ef. 4-7-93; AFS 11-1993, f. & cert. ef. 6-17-93; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0187; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4240; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4240

137-055-4260

Withholder Fee for Income Withholding Services

When any withholder is served with an order to withhold for the payment of current support and/or arrears, the withholder may, in addition to the amount withheld in compliance with the order to withhold, also deduct from the obligor's income a monthly processing fee not to exceed five dollars (\$5).

(1) If the amount to be withheld for support is the maximum allowable under OAR 137-055-4200, the withholder shall deduct the fee, if charged, from the amount withheld as support.

(2) No processing fee shall be charged or collected when the withholding is from unemployment compensation.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.414

Hist.: AFS 57-1985(Temp), f. & ef. 10-1-85; AFS 24-1986, f. & ef. 3-17-86; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-035-0047; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0190; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4260; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4260

137-055-4280

Order to Withhold Issued by Another State

When a withholder receives an order to withhold that is issued by another state, the withholder shall apply the income-withholding law of the state of the obligor's principal place of employment in determining:

(1) Any withholder's fee for processing the withholding;

(2) The maximum amount that may be withheld from the obligor's income;

(3) The time periods within which the withholder must withhold under the order to withhold and forward amounts thus withheld;

(4) The priorities for withholding and allocating income withheld when the obligor owes support to multiple obligees; and

(5) Any withholding terms or conditions not specified in the order.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.414, ORS 110.394 - ORS 110.397

Hist.: AFS 57-1985(Temp), f. & ef. 10-1-85; AFS 24-1986, f. & ef. 3-17-86; AFS 4-1990, f. 1-18-90, cert. ef. 2-1-90; Renumbered from 461-035-0047; AFS 7-1994, f. & cert. ef. 4-1-94; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0197; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4280; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4280

137-055-4300

Support Enforcement by Methods Other than Income Withholding

(1) Income withholding, pursuant to OAR 137-055-4060 through 137-055-4280, shall be the preferred method that the administrator shall use to collect current and past-due support.

(2) If payment is not received in the amount of current support due for each month plus an amount toward any existing arrears, the administrator shall pursue additional enforcement actions as specified under this rule.

(a) For purposes of this section, "additional enforcement actions" means actions in addition to income withholding under any of the following circumstances:

(b) The administrator shall pursue additional enforcement actions where any of the following circumstances occurs:

(A) Collection by income withholding cannot be attained under OAR 137-055-4060 through 137-055-4280.

(B) Income withholding is collecting less than the amount of current support due for each month; or

(C) Income withholding is collecting the full amount of current support due for each month, but is collecting nothing toward arrears on the case.

(D) No current support is owed, and income withholding is collecting nothing toward arrears or the obligor is not paying a negotiated or agreed-upon amount toward arrears.

(c) All such enforcement actions shall be in compliance with, and as appropriate under, state and federal law. The administrator shall not initiate or take any action under this rule that is precluded or prohibited by state or federal law due to the circumstances of the individual case.

(d) The administrator shall take such action within 30 calendar days of whichever of the following occurs later:

(A) Arrears have occurred; and

(B) The administrator has located the obligor, the obligor's employer, or other assets or sources of income, provided such information is sufficient to enable the next appropriate action on the case.

(e) If service of process is required before taking an enforcement action:

(A) Service must be completed or unsuccessful diligent attempts to serve process must be documented, and enforcement action must be initiated if process is served, no later than 60 calendar days of initially identifying arrears or of locating the obligor or the obligor's employer, assets, or other sources of income, whichever occurs later.

(B) If a court action is necessary, the requirement to initiate enforcement action within no later than 60 calendar days is met if the administrator has initiated action to enter the case with the court for a court hearing or action.

(f) The administrator is not required to perform those "additional enforcement actions" that the Oregon Child Support Program already provides automatically for every case meeting specified criteria. Further, a case does not necessarily need to meet the criteria for "additional enforcement actions", under section (2) of this rule, in order for the Oregon Child Support Program to automatically provide the enforcement methods under this subsection for every case meeting specified criteria. These enforcement methods include, but are not limited to:

(A) Interception of state and federal tax refunds, under OAR 137-055-4320 through 137-055-4340.

(B) Release of information to consumer credit reporting agencies, under OAR 137-055-4560.

(g) If any enforcement action specified under this rule, whether by itself or in combination with collections attained through income withholding, results in collection of current support each month plus payments toward reducing any arrears that exists on a case, the administrator is not required to pursue further additional enforcement actions on that case. However, the administrator shall resume pursuing additional enforcement actions if any of the circumstances under subsection (2)(b) of this rule subsequently occurs.

(3) The administrator shall take additional enforcement action, under section (2) of this rule, by attempting to determine if the obligor has any income, property, assets, or resources from which support can be collected.

(a) The administrator shall attempt this determination by utilizing any one or more of the following:

(A) Information about the obligor's location, employment, or other income or assets, that the administrator obtains from the obligee or from any other person. The administrator shall respond to the obligee, in writing, by telephone, or in person, within 30 days of ascertaining whether or not information submitted by the obligee, on the obligee's own initiative, was accurate or useable.

(B) Information accessible or attainable through the Child Support Enforcement Automated System (CSEAS), or other electronic data sources

(C) Discovery methods, including financial disclosure exams, or written interrogatories, unless any of the following are true:

(i) The administrator has not located the obligor, and is therefore not able to pursue such methods.

(ii) The obligee has not asserted to the administrator, or the administrator has no reason to suspect, that the obligor has specific and verifiable income, property, resources, or assets against which the administrator may take effective action to collect support.

(iii) The administrator has located or verified the obligor's income, property, assets, or resources through other means, or otherwise can do so, and therefore does not need to rely on discovery methods.

(b) The administrator shall document the case record with the following:

(A) The administrator's efforts to determine or verify if the obligor has property, assets, or resources, against which the administrator may take action to collect support.

(B) Actions the administrator takes to collect support against such property, assets, or resources.

(4) When the administrator determines that an obligor has income, property, assets, or resources against which enforcement action may be taken, the administrator shall, in compliance with and as appropriate under other provisions of this rule and of state and federal law, take one or more of the following specific actions:

(a) Ask the court to require the obligor to post bond or security to ensure payment of support, unless the administrator has determined that:

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(A) Based on the experiences of the administrator in its locality, a bond or security is not likely to be commercially available to the obligor for this purpose;

(B) The obligor is legally and financially unable to pay the cost of a bond or security;

(C) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator;

(D) Any funds the obligor has to purchase a bond would be better applied to requiring the obligor to make payment for current or past-due support. However, on cases where current support is owed to the obligee and not assigned to the state, the obligee must concur with this determination; or

(E) The obligor has taken action to purchase a bond or security without need for court action.

(b) File liens against real property or personal property that the obligor owns in Oregon, to the extent that a lien does not already exist under Oregon law, or take other effective actions to collect support from the value of such property such as by obtaining a writ of garnishment, unless the administrator has determined that:

(A) The obligor owns no property against which such action would be likely to produce a collection; or,

(B) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator.

(c) Garnish or attach other assets, or resources of the obligor, unless the administrator has determined that such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator. In cases where such action will result in additional taxes or penalties to the obligor, the administrator may negotiate with the obligor to determine an amount the obligor will need to retain to pay such additional taxes or penalties.

(d) Pursue suspension of any license the obligor may have, to the extent permissible under state law and rules.

(e) Prosecute the obligor for contempt of court, subject to section (5) of this rule.

(f) Prosecute the obligor for criminal non-support, subject to section (5) of this rule.

(g) Refer the obligor for federal criminal prosecution under the Interstate Child Support Recovery Act, subject to section (5) of this rule.

(5) Prosecution for contempt of court or for criminal non-support, or referral of obligors for federal criminal prosecution under the Interstate Child Support Recovery Act, is subject to the prosecutorial discretion of the administrator.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.080

Hist.: AFS 27-1994, f. & cert. ef. 11-10-94; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0200; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4300; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4300

137-055-4320

Collection of Delinquent Support Obligations Through the Oregon Department of Revenue

(1) The administrator, may claim Oregon tax refunds otherwise due to be paid to an obligor, to collect:

(a) Support arrears;

(b) Unpaid award amounts from any judgment entered against the obligor for birth expenses or for the cost of parentage tests to establish a child's paternity.

(2) The Division of Child Support (DCS) will file such claims with the Oregon Department of Revenue according to rules and procedures established by the Oregon Department of Revenue.

(3) Referral of arrears shall be a liquidated claim, debt, or account established by a court or administrative order.

(4) DCS shall not refer any case where the case record indicate that one or more of the following is applicable:

(a) The arrears are less than \$25;

(b) The obligor has filed for bankruptcy, as defined by federal bankruptcy code, unless the bankruptcy claim has been resolved and the administrator has legal authority to proceed with collection;

(c) The obligee has claimed "good cause" for not cooperating with efforts to establish or enforce support.

(5) DCS shall distribute tax refunds recovered by this process as set out in OAR 137-055-6020.

(6) The Child Support Program shall send an advanced written notice to the obligor and the obligee of the intent to claim the tax refund and apply it to the obligor's account. Such notice shall advise of the obligor's right to

an administrative review of the proposed action. The only issues that may be considered in the review are:

(a) Whether the obligor is the person who owes the support as indicated by the case record; or

(b) Whether the arrears indicated in the notice are correct.

(7) Upon receipt of the request for review, the administrator will schedule the review and notify the obligor and obligee of the date, time and place of the review.

(8) At any time any refund is claimed, the Department of Revenue shall send by regular mail written notice to the obligor of the intention to apply the tax refund to the obligor's delinquent account. Such notice shall advise the obligor of the right to an administrative hearing regarding this action that:

(a) The obligor, within 30 days from the date of this notice, may request an administrative hearing before an administrative law judge;

(b) The request for hearing must be in writing.

(9) No hearing shall be held if the obligor, after having been given due notice of rights to a hearing, has failed to exercise such rights in a timely manner as specified in the notice.

(10) No issues may be considered at the administrative hearing that have been litigated previously or where the obligor failed to exercise rights to appear and be heard or to appeal a decision which resulted in the accrual of the arrears.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.610 & ORS 293.250

Hist.: AFS 13-1978, f. & ef. 4-4-78; AFS 23-1987(Temp), f. 6-19-87, ef. 7-1-87; AFS 60-1987, f. & ef. 11-4-87; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-004; AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 30-1995, f. 11-6-95, cert. ef. 11-15-95; AFS 7-1997, f. & cert. ef. 6-13-97; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0205; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4320; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4320

137-055-4340

Collection of Delinquent Support Obligations Through the U.S. Secretary of the Treasury

(1) The administrator, may claim federal tax refunds and administrative offset of other payments from the federal government through the U.S. Secretary of the Treasury (Secretary) otherwise due to be paid to an obligor to collect support arrears.

(2) The Division of Child Support (DCS) will file such claims with the Secretary according to rules and procedures established by the federal government.

(3) Referral of arrears shall be a liquidated claim, debt, or account established by a court or administrative order.

(4) DCS shall not refer any case for federal tax refund or administrative offset where the case record indicates that one or more of the following is applicable:

(a) The arrears assigned to the state are less than \$150 and the support amount is less than three months delinquent;

(b) The arrears are less than \$500 on a case where none of the arrears have been assigned to the state;

(c) The obligor has filed for bankruptcy, as defined by federal bankruptcy code, unless the bankruptcy claim has been resolved and the administrator has legal authority to proceed with collection; or

(d) The obligee has claimed "good cause" for not cooperating with efforts to establish or enforce support.

(5) DCS shall distribute tax refunds and other federal administrative offsets recovered by this process as set out in OAR 137-055-6020.

(6) A one-time pre-offset notice will be sent to the obligor and obligee by either the federal government or DCS of the intent to claim the tax refund, or other federal payments through the Secretary, and apply them to the obligor's account. Such notice shall advise of the obligor's right to an administrative review regarding this action. The only issues that may be considered in the review are:

(a) Whether the obligor is the person who owes the support as indicated by the case record; or

(b) Whether the arrears indicated in the notice are correct.

(7) Upon receipt of the request for review, the administrator will schedule the review and notify the obligor and obligee of the date, time and place of the review.

Stat. Auth.: ORS 25.625 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.625

Hist.: AFS 7-1997, f. & cert. ef. 6-13-97; AFS 15-1997(Temp), f. & cert. ef. 9-2-97; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0210; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4340; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4340

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137-055-4360

Internal Revenue Service Full Collection Services

(1) For the purpose of this rule, "Regional Representative" means the Region X office of the Department of Health & Human Services, Administration for Children and Families, Child Support Enforcement.

(2) The administrator may request Internal Revenue Service Full Collection Service on behalf of a given case.

(3) For a case to be eligible for Full Collection Service, all of the following conditions must apply:

(a) There shall be a court or administrative order for payment of child support;

(b) The amount to be collected under the support order shall be at least \$750 in arrears;

(c) At least six months shall have elapsed since the case was last submitted for Full Collection Service;

(d) The administrator, the obligee, or the obligee's representative shall have made reasonable efforts to collect the support by using the state's standard collection procedures. These actions may include all of the following when deemed reasonable and cost-effective:

(A) Orders to withhold income;

(B) Orders to withhold Unemployment Compensation or Worker's Compensation benefits;

(C) Garnishments against liquid assets such as bank accounts, inheritance assets, lottery winnings, or any other liquid assets that may be garnished under state law;

(D) Interception of federal and state tax refunds;

(E) Credit bureau reporting;

(F) Initiating reciprocal support enforcement action with other states;

(G) Filing liens against real property the obligor may own in order to collect past-due support;

(H) Suspension of occupational license(s) the obligor may have to the extent permissible under state law and rules;

(I) Discovery methods, including financial disclosure exams or written interrogatories;

(J) Prosecution for contempt of court or criminal nonsupport.

(4) All requests shall be submitted in the manner and form prescribed by the Regional Representative and must include the following:

(a) Sufficient information to identify the obligor, including the obligor's name and social security number and, the obligor's home address and place of employment, including the source of this information and the date this information was last verified.

(b) A copy of all court or administrative orders for support;

(c) A statement of the amount owed under the support order(s), including a statement of whether the amount is in lieu of, or in addition to, amounts previously referred to the Internal Revenue Service for collection;

(d) A statement that the administrator, the obligee, or the obligee's representative has made reasonable efforts to collect the amount owed using the state's standard collection procedures. The statement shall describe the collection actions that have been taken, why they failed, and why further state action would be unproductive;

(e) The dates of any previous requests for referral of the case to the Internal Revenue Service for collection;

(f) A statement that the administrator agrees to reimburse the U.S. Secretary of the Treasury (Secretary) for the established fee for paying the costs of collection;

(g) A statement that the administrator has reason to believe that the obligor has assets that the Secretary might levy to collect the support, including a statement of the nature and location of the assets, if known.

(5) Each request for Full Collection Service will be reviewed by the Regional Representative to determine whether it meets federal requirements. The administrator shall cooperate with the Regional Representative in attempting to correct any deficiencies.

(6) The administrator shall immediately notify the Regional Representative of the following changes in case status:

(a) The amount due;

(b) The nature or location of the obligor's assets;

(c) The address of the obligor.

(7) The administrator shall be responsible for paying the fee established under subsection (4)(f) of this rule.

(8) The administrator shall recover the fee amount it has paid on any case under subsections (7) of this rule, from the amount of any collection subsequently attained by the Internal Revenue Service and forwarded to the Division of Child Support in accordance with OAR 137-055-6020.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Statute Implemented: ORS 25.080

Hist.: AFS 31-1989, f. 6-6-89, cert. ef. 6-9-89; AFS 51-1989, f. 8-25-89, cert. ef. 9-1-89; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0655; AFS 11-1990, f. 3-27-90, cert. ef. 4-1-90; AFS 20-1996, f. 5-24-96, cert. ef. 6-1-96; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0225; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4360

137-055-4420

Occupational, Drivers, Oregon Liquor Control and Recreational Licensing

(1) For the purposes of this rule the following definitions shall apply:

(a) "License" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driving privileges granted by the Department of Transportation under ORS chapter 807 which includes all driving licenses and permits, and all permanent and fee-based annual hunting and fishing licenses issued by the Oregon Department of Fish and Wildlife;

(b) "Administrative review" means a review of the obligor's objection to proposed action under this rule performed by the administrator to determine whether:

(A) The arrears exceed the threshold;

(B) The licensee is the obligor;

(C) The obligor is in compliance with a previous agreement;

(D) An income withholding order is in place and producing regular payments;

(E) The obligor has made payments in an amount greater than the monthly support amount for the three months previous to selection of the case and that those payments were not as a result of a garnishment, tax offset or some other enforcement action; and

(F) The obligor is ordered to pay current support payments.

(2) This rule shall govern the process for suspending any license as defined in subsection (1)(a) of this rule of any obligor in a child support case in which there is a judgment to pay current support and the original support order was entered at least three months prior to initiating the process for license suspension, who owes \$2,500 or more in past-due child support or whose support arrears are equal to at least three times the current monthly child support obligation, whichever occurs later, subject to the provisions herein.

(3) Cases that qualify for initiation of the process described in this rule will be identified by data matches and terminal access with license issuing entities, and by information received from other sources. Information from other sources shall be verified with the licensing agency. The Division of Child Support (DCS) shall be the liaison with the licensing agencies. The administrator shall verify issuance of licenses to individuals through DCS when those licenses have been identified by means other than data match or terminal access.

(4) If any of the following conditions are found, the administrator will take no further action toward suspension of a license under this rule until such a time as the condition no longer exists:

(a) The case is an arrears only case;

(b) The child support arrears are less than the standard set in section (2) of this rule, excluding any and all spousal support;

(c) The obligor has previously entered into an agreement and is in compliance with the agreement; or

(d) The obligor has made payments for the prior three months that have been for an amount greater than current support each month. These payments shall not have been as a result of garnishment, tax offset or any non-income withholding enforcement action.

(5) If the administrator determines that none of the conditions in section (4) of this rule applies or no longer applies, the administrator may initiate or continue action under this rule. The administrator may use the process described in this rule as one of several enforcement options available and may exercise discretion to optimize collection potential in individual cases. The administrator shall prioritize this enforcement option in decision making based on availability and application of other enforcement options and available staff resources.

(6) If the administrator determines that the case meets the criteria for action under this rule and decides to proceed, the administrator will initiate two notices to the obligor. One notice will be sent to the address of record of the issuing agency, and a second notice to the obligor's address of record on the case record. Both notices will be sent to the obligor by regular mail and will include a form to contest the suspension of the license. If the address of record maintained by the administrator and the issuing agency are the same, the administrator may send only one copy of the notice to suspend and the accompanying forms. The obligee shall receive a copy of the

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notice and forms sent to the obligor. The obligee's copy shall be sent by regular mail.

(7) The content of notices in section (6) of this rule shall contain the following information:

(a) The specific license(s) subject to suspension and a statement that other licenses may be subject to suspension;

(b) The name of the person whose license is subject to suspension, and social security number, if available, and date of birth, if known;

(c) The child support case number or numbers of the person subject to suspension;

(d) The amount of the arrears and amount of the current child support obligation;

(e) The procedure for contesting the suspension and the bases for contesting the suspension. The only bases for contesting the suspension are:

(A) The child support arrears are less than the standard set in section (2) of this rule;

(B) There is mistake in identity of the obligor; or

(C) The obligor is in compliance with a previous agreement as provided by ORS 25.750 to 25.783.

(f) A statement that the obligor may enter into a written agreement, compliance with which shall preclude suspension of the license. The obligor has 30 days from the date of the notice to contact the administrator about entering into a written agreement. The agreement must be entered into within 30 days of the obligor's contact with the administrator. If the obligor qualifies for a hardship pursuant to section (10) of this rule, the agreement may temporarily be for payment of less than the 120% of the current monthly child support obligation;

(g) A statement that the administrator may make a demand upon the obligor to furnish sufficient income information to determine an agreement amount and that failure to provide sufficient income information will result in license suspension;

(h) A statement that the obligor has 30 days from the date of the notice in order to contest the suspension by requesting an administrative review in writing on a form included with the notice; and

(i) A statement that failure to contact the administrator within 30 days from the date of the notice specified in this subsection and entry into a written agreement within 30 days of contacting the administrator, or to request an administrative review within 30 days from the date of the notice, shall result in notification to the issuing agency to suspend the license.

(8) Any agreement under subsection (7)(f) of this rule must:

(a) Be in writing and signed by the obligor;

(b) Specify the due date for payments or, if the hardship provisions of section (10) of this rule apply, the dates for completion of other negotiated activities required of the obligor. The administrator may negotiate a due date other than the due date on the case record;

(c) State the amount of the payment. Unless the hardship provisions of section (10) of this rule apply, the amount of the payment shall be the amount that could be obtained from an income withholding order pursuant to OAR 137-055-4200. Assume Oregon minimum wage for the obligor in determining income level if the obligor claims income in an amount less than minimum wage and no evidence is found that the obligor has income in an amount greater than Oregon minimum wage;

(d) State that the payment may be made through income withholding (which may occur when the administrator did not previously know about the income source);

(e) State that the agreement may be amended if there is a change in the amount of current child support;

(f) State that the agreement may be amended if there is a change in income which would change the agreement amount per the calculations in subsection (8)(c) or section (10) of this rule;

(g) State that the agreement is terminated if the obligor fails to comply with the terms of the agreement;

(h) State that failure to comply with terms of the agreement will result in notification to the issuing agency to suspend the license;

(i) State that the agreement does not preclude other enforcement actions to collect current child support and arrears, including, but not limited, to income withholding, and state and federal income tax offset;

(j) Include a statement that the obligor is required to notify the administrator within 10 days when there is a change in employment; and

(k) State that information voluntarily provided may be used in other enforcement actions, including contempt actions.

(9) Any agreement made pursuant to this rule may be voided by the administrator if either subsections (9)(a) or (b) of this rule apply. If an agreement has been so voided, the administrator shall begin the process of entering into a new agreement.

(a) The income of the licensee/obligor changes; or

(b) The licensee/obligor has under reported income in establishment of the agreement.

(10) Under the conditions and time frames set out in section (11) of this rule, an exception to the requirements of subsection (8)(c) of this rule may be made if the obligor claims a hardship. Hardships may be granted for conditions that limit an obligor's ability to pay the amount that could be obtained from an income withholding order pursuant to OAR 137-055-4200. If the obligor claims a hardship and complies with the conditions for this exception, the administrator may enter into a compliance agreement with the obligor to:

(a) Require payment of 100 percent of the current support amount for the case if the obligor has only one child support case. If the obligor has multiple child support cases, the administrator may limit the amount of the payment agreement to the lesser amount of 100% of the current support amount or that case's pro rata share of 50 percent of disposable earnings based on amounts of monthly support obligations per case; or

(b) Require other terms of compliance if the obligor demonstrates an inability to pay the amount per subsection (a) of this section. The compliance agreement may:

(A) Require a payment amount lower than 100% of the current support amount;

(B) Require a combination of a lesser payment amount and the obligor's participation in activities to enhance the obligor's ability to pay child support; or,

(C) If the obligor demonstrates no ability to pay, require the obligor to participate in activities to enhance the obligor's ability to pay child support with no payment.

(11) The conditions and time frames for exceptions under section (10) of this rule are:

(a) For a hardship based on a claim of a substantial change in circumstances, the obligor agrees to request a periodic review and modification or a substantial change in circumstance modification under the provisions of OAR 137-055-3420. The compliance agreement shall be reviewed by the administrator after the administrator finishes the review and modification process. If the compliance agreement is granted pending the obligor's request for a modification and the obligor has not completed and returned the necessary paperwork to the administrator within 30 days, the compliance agreement shall be reviewed for possible termination.

(b) For a hardship claim when the obligor does not qualify for a change in circumstances modification and for any other hardship claim, the administrator shall review the compliance agreement at least once during the initial three month period. The administrator may enter into further compliance agreements with the obligor, however, at minimum, the terms of compliance shall be reviewed after each six month period and the payment amount increased until the amount of the payment is the amount that could be obtained from an income withholding order pursuant to OAR 137-055-4200.

(12) The administrator shall provide notice to the obligee of any agreement entered into by sending the obligee a copy of the agreement.

(13) If the administrator determines that the suspension of the license should occur, both the obligee and the obligor shall receive written notice of such determination. The notice will include the following:

(a) The basis for the determination;

(b) The right to appeal the determination and a form on which to make the appeal;

(c) The time limit for making an appeal is 14 days; and

(d) That if no appeal of the suspension is received within 14 days, the licensing agency will be notified to suspend the license immediately.

(14) An appeal of the determination in section (13) of this rule shall be to an administrative law judge and the suspension of the license is stayed pending the decision of the administrative law judge. The only bases for an appeal are:

(a) There is a mistake in the amount of the arrears and the arrears balance is less than the threshold for initiation of action under this rule;

(b) A mistake in identity of the obligor; or

(c) That the obligor has previously entered into an agreement and is in compliance with that agreement.

(15) If the obligor fails to enter into an agreement or fails to appeal the determination within the time period allowed, or if the administrative law judge's order supports the suspension of the license, the administrator shall send a notice to the issuing agency to suspend the license. A copy of this notice shall be sent to the obligor and obligee by regular mail.

(16) The notice to the issuing agency to suspend the license shall contain the following:

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(a) A statement that a child support case record is being maintained by DCS and the case is being enforced by the administrator; and

(b) A statement that the holder of the license is in arrears in excess of \$2,500 or three times the current monthly support amount, whichever occurs later, and either:

- (A) The holder has not entered into an agreement; or
- (B) The holder is not in compliance with an agreement.

(17) At any time after suspension of the license, the obligor may request that the administrator make a review to determine if the condition(s) that resulted in the suspension continues to exist. The administrator will review the suspension and notify the issuing agency if it is determined that the license may be reinstated, contingent upon the requirements of the issuing agency, when any of the following conditions are met:

- (a) There is no longer a current child support order;
- (b) The arrears are less than the threshold for suspension;
- (c) There is no longer a child support program case;
- (d) The obligor has entered into an agreement and has shown compliance with the terms of the agreement; or
- (e) There is an income withholding order now in place and producing regular payments.

(18) Notwithstanding section (17), at anytime the administrator reviews the case and determines the condition(s) that resulted in the suspension no longer exist, the administrator shall notify the issuing agency that the license may be reinstated, contingent upon the requirements of the issuing agency.

(19) In the event that an obligor has more than one child support case, the Child Support Program Director will determine and assign a single branch office that will be responsible for services relating to that obligor under this rule. All other enforcement services shall be provided by the administrator otherwise assigned to the obligor's case(s).

Stat. Auth.: ORS 25.750 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.750 - ORS 25.783

Hist.: AFS 11-1994, f. & cert. ef. 6-3-94; AFS 22-1994, f. 9-27-94, cert. ef. 10-1-94; AFS 26-1995, f. 10-20-95, cert. ef. 10-23-95; AFS 18-1996, f. & cert. ef. 5-10-96; AFS 37-1996, f. & cert. ef. 11-20-96; AFS 21-1997, f. & cert. ef. 11-7-97; AFS 13-1998, f. 8-21-98, cert. ef. 8-24-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0233; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; AFS 1-2002, f. 1-25-02, cert. ef. 2-1-02; AFS 9-2002, f. 6-26-02, cert. ef. 7-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4420

137-055-4440

Liens Against Personal and Real Property

(1) A judgment for support constitutes a lien on real and personal property as provided for in Oregon law.

(2) Whenever there is a judgment for unpaid support and the administrator learns that an obligor has assets, then the administrator may cause a lien to be recorded on any real or personal property owned by the obligor unless the property is exempt from lien laws under Oregon law. Upon filing the notice of claim of lien, the administrator shall send a copy of the notice to the property owner by certified mail and to the obligee by regular mail.

(3) Any other state with a judgment for unpaid support may record a lien under the provisions of ORS 18.320, and shall use the form provided by the Office of Child Support Enforcement of the United States Department of Health and Human Services.

(4) Pursuant to OAR 137-055-4300(3), the administrator may use the process described in this rule as one of several enforcement options available and may exercise discretion to optimize collection potential in individual cases. The administrator shall prioritize this enforcement option in decision making based on availability and application of other enforcement options and available staff resources. Prior to forcing a sale of real or personal property, the administrator must consider the following factors:

- (a) The market value of the property after subtracting the value of superior claims of senior lien holders;
- (b) The market conditions for achieving maximum return;
- (c) The long-term impact on the obligor's ability to comply with an unsatisfied or future support duty;
- (d) The storage costs, notice and sale costs;
- (e) Exemption claims;
- (f) Co-ownership of the property, or impact on any existing trust on the property; and
- (g) The availability of other, more effective remedies to satisfy the support debt.

(5) The administrator shall not proceed with this enforcement option when a court of appropriate jurisdiction has ordered that the obligor be exempted from referral. The obligor must notify the obligee and the administrator when filing a claim for an exemption with a court.

(6) An obligee may authorize the State of Oregon to release a lien against real property of an obligor when the obligee has submitted a signed and notarized lien release form to the administrator.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 18.320, 25.670 & ORS 25.690

Hist.: AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0235; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4440; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4440

137-055-4460

Posting Security Bond or Other Guarantee of Payment of Overdue Support

(1) Whenever there is a judgment for unpaid support, the administrator may ask the court to require the obligor to post security, bond, or some other guarantee to secure payment of the overdue support if the following criteria also exist:

- (a) The obligor has a poor payment history; and
- (b) The obligor has assets which exceed the amount of the support arrears and the arrears cannot be reached by any other means.

(2) The administrator shall include in the Motion to Show Cause, a section notifying the obligor of the intent to ask the court for security, bond, or some other guarantee of payment. This statement shall constitute advance notice to the obligor of such intent and shall provide the obligor the opportunity to contest the action.

(3) Notwithstanding the provisions of section (1) of this rule, use of this procedure shall be considered inappropriate if the administrator determines:

- (a) It is unlikely that the obligor would be able to secure a bond;
- (b) The obligor is unable to pay child support, pursuant to ORS 25.245; or

(c) A court of appropriate jurisdiction has ordered that the obligor be exempted from referral due to hardship circumstances. The obligor must notify the obligee and the administrator when filing a claim for hardship exemption with a court.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.230 & ORS 25.715

Hist.: AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0237; AFS 5-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 15-2001, f. 7-31-01, cert. ef. 8-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4460; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4460

137-055-4500

Financial Institution Data Match — Reasonable Fee

(1) This rule defines "reasonable fees" which the Child Support Program (CSP) will pay to financial institutions for implementing and conducting computerized data matches under ORS 25.640 through 25.646. Appropriations to implement the computerized data matches included federal matching funds; therefore, the CSP is required to follow the general principles for determining allowable costs as provided in OMB Circular No. A-87.

(2) Reasonable fee means direct costs only as defined in OMB Circular No. A-87 and shall be limited to those expenses. Reasonable fee shall not include any indirect costs.

(3) Direct costs mean those expenses that are of a type that would generally be recognized as ordinary and necessary to establish and conduct a data match, such as:

- (a) Compensation of employees time specifically related to the establishing and conducting the data match;
- (b) Computer system expenses specifically related to establishing and conducting the data match;
- (c) Costs of material acquired, consumed or expended specifically for the purpose of establishing and conducting the data match;
- (d) Necessary travel expenses and similar expenses directly associated with establishing and conducting the data match.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.643

Hist.: AFS 20-1998, f. & cert. ef. 10-5-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1098; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4500; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4500

137-055-4520

Collection and Distribution of Support Through Garnishment Proceedings

(1) The administrator may utilize garnishment proceedings in accordance with ORS Chapter 18 for the purpose of collecting past due support.

ADMINISTRATIVE RULES

(2) When the administrator receives a collection from a garnishment proceeding, the Division of Child Support (DCS) shall hold the collection for 40 days if the garnishee is making a payment of other than wages or 120 days if the garnishee is making a payment of wages before distributing any amounts due the obligee from the collection.

(a) This requirement is to accommodate the possibility that the administrator may have to return funds from the collection to the garnishee, the obligor, or the court, as a result of the obligor or any person who has an interest in the garnished property having made a challenge to garnishment in accordance with ORS Chapter 18.

(b) The administrator shall waive this requirement to hold the collection, and shall apply the collection to the case for immediate distribution, in any case where the obligor provides the administrator with a signed and notarized statement expressly waiving the right to make a challenge to garnishment and requesting that the administrator apply and distribute the payment immediately.

(3) Notwithstanding subsection (1) of this rule, when the administrator initiates garnishment proceedings under ORS Chapter 18 against the following kinds of lump sum payments, the amount garnished shall be limited to 25% of such lump sum payments. These include lump sum payments on a settlement or judgment from:

- (a) Disability benefits (except SSDI);
- (b) Public or private pensions, unless otherwise ordered by a court;
- (c) Health insurance proceeds and disability proceeds from life insurance policies;
- (d) Veteran's benefits and loans;
- (e) The first \$10,000 of payment on account of personal bodily injury, amounts over \$10,000 are not limited to 25%;
- (f) Payment in compensation of loss of future earnings reasonably necessary for support of an obligor and any current dependents; and
- (g) Workers' compensation benefits.

(4) If the administrator initiated the garnishment at the request of another state for automated administrative enforcement services and the obligor chooses to make a challenge to garnishment under ORS Chapter 18 with the clerk of the court, the obligor shall include a copy of the writ of garnishment and pay the filing fee required for an appearance under ORS Chapter 21.

(5) Upon receipt of a notice of the challenge to garnishment from the clerk of the court, the administrator may file with the clerk of the court a response to the challenge to garnishment, attaching copies of the writ of garnishment and the original certificate of garnishee, certified by the administrator, and any supporting documentation necessary or helpful to the court in making a determination of the challenge to garnishment.

(6) When the contents of a bank account are garnished and the obligor makes a challenge to garnishment which claims that all or some portion of the contents of the account came from lump sum payments listed in section (3) of this rule, the administrator may return to the obligor the portion of such lump sum payments received from that account in excess of 25%, as appropriate.

(7) When the garnishee is a credit union, the credit union may retain the par value of the garnished account, defined as the face value of an individual credit union share necessary to maintain a customer's membership.

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 18.645, ORS 25.020 & ORS 25.080
Hist.: AFS 28-1996, f. & cert. ef. 7-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0238; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4520; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4520

137-055-4540

Restriction of Passports

(1) When the Division of Child Support submits delinquent child support accounts for IRS tax refund offset pursuant to OAR 137-055-4340, the federal Department of Health and Human Services (DHHS) will select cases in which the delinquency is \$5,000 or more for passport restriction.

(2) Passport restriction means the United States Secretary of State will refuse to issue a passport or may revoke, restrict or limit a passport which was previously issued.

(3) The obligor and the obligee will receive notice of passport restriction with the notice of tax refund offset specified in OAR 137-055-4340. The notice will advise the obligor and the obligee of the right to an administrative review regarding this action:

(a) The obligor or obligee may request an administrative review as specified in the notice;

(b) The only issues that may be considered in the review are:

(A) Whether the obligor is the person who owes the support balance as indicated by the case record; or

(B) Whether the support balance indicated by the official case record is correct.

(4) Upon receipt of the request for review, the administrator will schedule the review and notify the obligor and obligee of the date, time and place of the review. The decision made in the review and the basis for this decision shall be recorded in writing and mailed to the obligor and obligee.

(5) Passport restriction may continue when the delinquency is reduced to less than \$5,000.

(6) Where a passport has been restricted and the obligor has either paid the delinquency in full or entered into and shown compliance with a payment agreement pursuant to this rule, the CSP shall give notice to the State Department to release the passport restriction. Notice shall be by the process specified by DHHS.

(7) A payment agreement is either payments made by income withholding or an agreement pursuant to section (8) of this rule.

(8) Any agreement under this subsection must:

(a) Be in writing and signed by the obligor;

(b) Specify the due date for payments. The administrator may negotiate a due date other than the due date on the case record;

(c) Assume Oregon minimum wage for the obligor in determining income level if the obligor claims income in an amount less than minimum wage and no evidence is found that the obligor has income in an amount greater than Oregon minimum wage;

(d) State the amount of the payment. When feasible, there shall be a lump sum payment to pay the delinquency in full or an initial lump sum payment to significantly reduce the delinquency. The amount of any ongoing payments shall be the amount that could be obtained from an income withholding order pursuant to OAR 137-055-4200;

(e) State that the agreement may be amended if there is a change in the amount of current child support;

(f) State that the agreement may be amended if there is a change in income which would change the agreement amount per the calculations in subsection (8)(d) of this rule;

(g) State that the agreement is terminated if the obligor fails to comply with the terms of the agreement;

(h) State that failure to comply with terms of the agreement will result in notification to the State Department to restrict the passport;

(i) State that the payment agreement does not preclude other enforcement actions to collect current child support and arrears, including, but not limited, to income withholding, and state and federal income tax offset;

(j) Include a statement that the obligor is required to notify the administrator within 10 days when there is a change in employment;

(k) State that information voluntarily provided may be used in other enforcement actions, including contempt actions.

(9) Any agreement made pursuant to this rule may be voided by the administrator if either subsections (9)(a) or (b) of this rule apply.

(a) The income of the holder of the passport/obligor changes; or

(b) The holder of the passport/obligor has under reported income in establishment of the agreement.

(10) When ongoing monthly support is owed, under the following circumstances, an exception to the requirements in the subsection (8)(d) of this rule may be made if the obligor claims a hardship. If an obligor claims a hardship and all of the conditions are met for this exception, the enforcement entity shall make an exception and limit the maximum amount of the payment agreement to 100 percent of the current support amount for the case. If the obligor has multiple child support cases, the administrator may limit the amount of the payment agreement to the lesser of 100% of the current support amount or the case's pro rata share of 50 percent of disposable earnings based on amounts of monthly support obligations per case. The conditions and time frames for exceptions are:

(a) The obligor requests a periodic review and modification or a substantial change in circumstance modification under the provisions of OAR 137-055-3420 or requests such a review and modification and is referred to the appropriate enforcement entity office to make the request. This exception shall terminate after the administrator finishes the review and modification process. If the exception is granted pending the obligor's request for a periodic or substantial change in circumstances review and modification and the obligor has not made such a request to the appropriate administrator within ten days, the exception may be terminated. If the obligor must ask another state for a review and modification, the obligor must furnish verification to the administrator within 30 days that such a request was made to the other state. If such verification is not provided, this exception may be terminated.

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(b) All other hardship periods shall terminate after a three-month period. These hardships may be granted for temporary conditions that limit an obligor's ability to make support payments.

(11) The administrator shall provide notice to the obligee of any payment agreement entered into by sending the obligee a copy of the payment agreement.

Stat. Auth.: ORS 25.625 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.625

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-9; AFS 15-2000, f. 5-31-00, cert. ef. 6-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0234; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; AFS 15-2001, f. 7-31-01, cert. ef. 8-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4540; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4540

137-055-4560

Consumer Credit Reporting Agencies

(1) The Division of Child Support (DCS) shall enter into agreements with consumer reporting agencies to disclose information under section (2) of this rule only to an entity that has furnished evidence satisfactory for DCS to determine that the entity is a consumer reporting agency as defined in ORS 25.650. Under these agreements, DCS shall provide such agencies with the names of obligors who owe past due support and shall indicate the specific amount each obligor owes. Under these agreements, DCS shall provide such information:

(a) Whether or not the agency has requested information on any specific obligor; and

(b) On a recurring or periodic basis.

(2) Before issuing a periodic report to a consumer reporting agency with information on any obligor, the DCS shall provide the obligor and obligee with advance notice of the intent to report the obligor's support balance to the consumer reporting agencies. The notice shall be sent to the obligor's and obligee's last known address. The notice shall:

(a) Indicate the balance to be reported to the consumer reporting agencies;

(b) Advise that the current balance shall be reported to the consumer reporting agencies on a recurring basis without sending further notice to the obligor and obligee;

(c) Advise of the obligor's right to contest the action within 30 calendar days of the date of the notice.

(d) Explain the process for contesting and advise that objections must be in writing on the form provided with the notice;

(e) Advise that the only issues that may be contested are:

(A) Whether the obligor is the person who owes the support balance indicated by the case record; or

(B) Whether the support balance indicated in the notice is correct.

(3) If the obligor does not contest the action within the allowed 30-day period, DCS shall release the information to the consumer reporting agencies.

(4) If the obligor contests the balance indicated in the notice:

(a) The administrator shall conduct an administrative review on the case and shall mail the results of the review to the obligor and obligee as soon as the review is complete;

(b) Once the administrative review is complete, DCS may notify the consumer reporting agencies of the arrears amount resulting from the review except as specified in section (8) of this rule.

(c) The obligor or obligee may contest the administrator's review and determination as provided in ORS 183.484.

(5) If the obligee contests the balance in the notice, the obligee may initiate an arrears establishment request pursuant to OAR 137-055-3240.

(6) If a court or agency of appropriate jurisdiction determines the balance owing is other than previously reported, DCS shall send the court's or agency's findings to the consumer reporting agencies no sooner than 10 days after receiving a copy of the final order.

(7) When consumer reporting agencies ask DCS for information regarding the balance an obligor owes on a support case, DCS may provide available information after complying with the requirements of sections (1) through (6) of this rule. DCS shall not charge the requesting agency a fee for this information.

(8) DCS shall refer to the consumer reporting agencies, the name and support balance of all obligors who meet the criteria of section (1) or (7) of this rule unless:

(a) The obligor pays the support balance in full;

(b) The obligor is not the person who owes the child support balance indicated by the case record; or

(c) The administrator determines that the obligor is not delinquent in the payment of support.

(9) When DCS has made a report to a consumer reporting agency under section (1) of this rule, DCS shall promptly notify the consumer reporting agency when the case record shows that the obligor no longer owes past due support.

(10) If paternity has been established and a consumer report is needed for the purpose of establishing or modifying a child support order, the administrator may request that a consumer reporting agency provide a report. At least 10 days prior to making a request for such report, the administrator must notify the obligor or obligee whose report is requested, by certified mail, that the report will be requested.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.650

Hist.: AFS 79-1985(Temp), f. & ef. 12-26-85; AFS 22-1986, f. & ef. 3-4-86; AFS 12-1989, f. 3-27-89, cert. ef. 4-1-89; Renumbered from 461-035-0051; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0670; AFS 11-1990, f. 3-27-90, cert. ef. 4-1-90; AFS 25-1990, f. 11-21-90, cert. ef. 12-1-90; AFS 7-1996, f. 2-22-96, cert. ef. 4-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 18-2000, f. & cert. ef. 7-12-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0230; AFS 15-2002, f. 10-30-02, ef. 11-1-02; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4560; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4560

137-055-4620

Enforcing Health Care Coverage

(1) The administrator shall issue a medical support notice to enforce orders for satisfactory health care coverage, as defined in Oregon Laws 2003, chapter 637, section 2, within two business days of receiving information that an employer has hired or rehired an obligor and at any time when appropriate and:

(a) An obligor is ordered to provide health care coverage for a child;

(b) Services are being provided pursuant to ORS 25.080;

(c) The obligor has failed to provide satisfactory health care coverage, either personally or through a spouse's coverage;

(d) The employer offers or may offer a health benefit plan to its employees; and

(e) Whether or not the obligee provides health care coverage.

(2) The obligee or obligor may seek modification of the order if the obligor is ordered to provide health care coverage, the obligee is not receiving TANF cash assistance or Medicaid, and the obligee is providing satisfactory health care coverage.

(3) When a medical support notice has been served and the obligor is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage and if more than one plan with dependent coverage is offered, the administrator shall select a plan in accordance with OAR 137-055-4640.

(4) The administrator shall notify the obligor and obligee that the medical support notice has been served on the obligor's employer and that the obligor may contest a medical support notice within 14 days after the first premium is withheld based on any of the following:

(a) The alleged obligor is not the obligor from whom health care coverage is ordered;

(b) The amount to be withheld for premiums is greater than is permissible under Oregon Laws 2003, chapter 637, section 7; or

(c) An order to provide health care coverage under a health benefit plan has not been issued in regard to the obligor's child. An order that does not provide for health care coverage includes:

(A) An order which does not contain a provision for the obligor to provide health care coverage;

(B) An order which states that the cost of health care coverage cannot exceed the support amount and the cost of coverage does exceed the support amount;

(C) An order which contains a finding that health care coverage is not ordered because the obligor's share of premiums make the application of the formula established under ORS 25.275 unjust or inappropriate but requires the obligor provide health care coverage when coverage that is reasonable in cost and accessible to the child becomes available, if the obligor provides proof to the administrator that the obligor's current cost of premiums compared to income is the same or greater than at the time of the order; or

(D) An order which states that health care coverage is accessible to the child, and such coverage is not accessible.

(5) When a contest to the medical support notice is made, the administrator, within 45 days of the date the premium is first withheld, shall:

(a) Conduct an administrative review to determine, based on an evaluation of the facts, whether the withholding of premiums may continue;

(b) Inform the obligor and obligee in writing of the determination and include information on the right to appeal the determination to the circuit court for a hearing under ORS 183.484.

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(6) When the administrator is notified by the employer that the amount to be withheld for premiums is greater than is permissible under Oregon Laws 2003, chapter 637, section 7, the administrator may review the circumstances and, if appropriate, reissue a medical support notice at a later date.

(7)(a) A medical support notice has priority over any previously filed attachment, execution, garnishment or assignment of income other than a withholding order issued for monetary support, unless otherwise requested by the obligee. Monetary support includes spousal and child support.

(b) An obligee who is a recipient of TANF cash assistance may not elect to receive health care coverage over monetary support. In those cases, the administrator shall select monetary support over health care coverage unless a child's health warrants otherwise.

(c)(A) Except as provided in section (7)(c)(B), an obligee who is not a recipient of TANF cash assistance and who selects health care coverage over monetary support, may change the selection:

(i) No more than once per year;

(ii) In conjunction with a medical support notice being issued to a new employer; or

(iii) When a child becomes seriously ill and health care coverage is needed.

(B) An obligee who is not a recipient of TANF cash assistance may not select health care coverage over monetary support if such a selection conflicts with the requirements of any bankruptcy plan concerning the obligor.

(8) A request to select health care coverage over monetary support may be made verbally or in writing.

(9) When multiple cases for an obligor are being enforced and the employer receives notice that one or more cases have selected health care coverage over monetary support, the employer must withhold in the following manner:

(a) First withhold the full amount listed on withholdings issued on the cases which have not selected health care coverage over monetary support;

(b) Withhold the premium for health care coverage, up to the maximum allowed by law;

(c) If the maximum is not reached, withhold support for the case(s) requesting health care coverage, up to the full amount of the withholding order or the maximum allowed by law, whichever is less;

(d) Identify which payment goes with which case and submit the monetary support payments to the Division of Child Support as directed in the withholding orders.

(10) An obligor may select a different health benefit plan during any applicable open enrollment period, providing the following criteria are met:

(a) The health care coverage is accessible to the child; and

(b) The health benefit plan provides satisfactory health care coverage, or other coverage if the order so requires.

(11) If an obligor changes to a health benefit plan which does not meet the criteria in section (10) of this rule, the administrator shall issue a medical support notice as provided in section (1) of this rule.

(12) The administrator shall provide the obligee with information regarding health care coverage obtained for the child(ren) and with any notice that coverage may terminate because withholding or employment has ended.

Stat. Auth.: Sec. 4, ch. 637, OL 2003 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: Sec. 4, ch. 637, OL 2003

Hist.: AFS 10-1990, f. 3-14-90, cert. ef. 4-1-90; AFS 25-1995, f. 10-12-95, cert. ef. 10-15-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0060; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4620; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4620

137-055-4640

Medical Support Notice— Plan Selection

(1) When a medical support notice has been served and the obligor is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage and if more than one plan with dependent coverage is offered, the plan administrator will notify the enforcing agency and the enforcing agency shall forward the health benefit plan information to the obligee.

(2) The notice sent by the enforcing agency with the health benefit plan descriptions and documents shall advise the obligee that:

(a) If the obligee identifies a plan and contacts the enforcing agency within 10 calendar days of the date the plan information was mailed, except as provided in section (4) of this rule, the enforcing agency shall notify the plan administrator of the selection made.

(b) If the obligee fails to notify the enforcing agency of a plan selection within 10 calendar days of the date the plan information was mailed,

except as provided in section (4) of this rule, the enforcing agency shall select the default plan if the plan administrator has indicated there is such a plan or, if there is not a default plan indicated by the plan administrator, the least costly plan available which provides satisfactory health care coverage.

(3) Notwithstanding any other provisions of this rule, and except as provided in section (4) of this rule, if the obligor has more than one case with an order to provide health care coverage, the enforcing agency shall select a plan using the following criteria:

(a) If there is only one satisfactory health benefit plan that is accessible to the children on all cases, that plan shall be selected;

(b) If there is more than one satisfactory health plan that is accessible to the children on all cases, the least costly plan shall be selected;

(c) If there is a satisfactory health plan, but it is not accessible to the children on all cases, then:

(A) If the medical support notices were issued on all cases on or about the same date, such as would occur when the obligor has a new employer, the least costly plan that is accessible to the child(ren) on at least one of the cases shall be selected; or

(B) If the medical support notices were issued at different times, such as would occur when there is an existing order with a provision for health care coverage on one case and a new order with a provision for health care coverage is established on a second case, the existing plan or the least costly plan that is accessible to the child(ren) on the case in which the first medical support notice was issued shall be selected.

(4) If an obligor's current family is covered by a health benefit plan, the enforcing agency may not select a plan which eliminates the current family's coverage.

(5) The enforcing agency shall notify the plan administrator of the selection within 20 business days of date the plan administrator forwarded the health plan descriptions and documents to the enforcing agency.

Stat. Auth.: Sec. 6, ch. 637, OL 2003 & Sec. 2, ch. 75 OL 2003

Stats. Implemented: Sec. 6, ch. 637, OL 2003

Hist.: AFS 38-1995, f. 12-4-95, cert. ef. 12-15-95; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0063; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4640; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4640

137-055-5020

Payment of Support Obligations

(1) Regardless of the provisions of a support order, the obligor must make all support payments to the Division of Child Support (DCS) while the obligee receives assistance in the form of TANF cash assistance, foster care or Oregon Youth Authority services.

(2) The obligor must continue to pay support to DCS after assistance ends, for as long as arrears are assigned to the state or support enforcement services are provided.

(3) When a case with a support order is activated on the Child Support Enforcement Automated System, DCS will send notice to the obligor and obligee of the requirement to pay through DCS. Except as provided in OAR 137-055-5060, DCS will begin billing in the first full calendar month following 30 days from receipt of the referral or from the date the TANF benefits are issued. DCS shall determine the arrears on a newly activated case pursuant to OAR 137-055-3240.

(4) An obligor may pay DCS by money order, personal check, certified check, cashier or traveler's check, earnings allotment, cash or by authorizing an electronic fund transfer from the obligor's account at a financial institution.

(5) Payment by electronic fund transfer may be established by completing an application furnished by and delivered to DCS, subject to the following conditions:

(a) The obligor's financial institution must be a participant in the Oregon Automated Clearinghouse Association;

(b) The obligor must be subject to a support order requiring payment to DCS or support enforcement services are being provided under ORS 25.080;

(c) The application must be complete and signed by all signatories to the obligor's account at the financial institution;

(d) The application must establish a monthly withdrawal date, no later than the monthly support due date, and the amount to be paid to DCS on each monthly withdrawal date from the obligor's account at the financial institution;

(e) DCS will notify the applying obligor and the obligee by mail if they qualify for the electronic fund transfer process and of the initial withdrawal date;

(f) The obligor may revoke the electronic fund transfer authorization by notifying DCS at least 10 days before the monthly withdrawal date;

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(g) DCS may revoke the authorization when there are insufficient funds in the obligor's account to make the authorized payment and no advance notice of that has been received. DCS will mail a notice of revocation to the obligor and obligee;

(h) DCS may refuse an obligor's application if it is not fully completed, or if the obligor has made any support payment to DCS with insufficient funds in the 12-month period preceding the obligor's application.

Stat. Auth.: ORS 25.427 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020 & ORS 25.396
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 14-1990, f. & cert. ef. 6-7-90; AFS 4-1991, f. 1-28-91, cert. ef. 2-1-91; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0020; AFS 14-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5020

137-055-5040

Accrual and Due Dates

This rule applies to any court order or administrative order requiring the payment of child support, or child and spousal support through the Division of Child Support (DCS), in accordance with ORS 25.020:

(1) Each support payment due under a support order is a final judgment, effective on the due date indicated in the order.

(2) When an order does not specify the date payments are to begin, the first payment shall be due on the last day of the month in which the order was signed, and the amount owed becomes a judgment effective on that day. The payment owed for each subsequent month shall be due, and become a judgment, effective on the last day of each month.

(3) When the support obligation terminates during any month, the support obligation shall not be pro-rated for the month, unless the order for support provides otherwise. In any month:

(a) If the support obligation terminates on or before the due date for the month, no amount shall be due for that month.

(b) If the support obligation terminates after the due date for the month, the entire monthly support amount shall be due for that month.

(c) If the order specifies that payments are due on a basis other than monthly, such as weekly, bi-weekly, or semi-monthly, the provisions of subsections (a) and (b) above shall apply to the specified payment period rather than monthly.

(4) If the administrator discovers that the support provisions in the body of a support order are inconsistent with the money judgment summary, the administrator shall:

(a) On a case in which the Division of Child Support is providing distribution only services, send a courtesy notice to all parties;

(b) On a case in which services are being provided under ORS 25.080 and the order is a judicial order which was not entered by the administrator, send a written notice to all parties requesting action be taken to correct the error. The notice will advise the parties that their support case will be enforced per the judgment register Oregon Judicial Information Network (OJIN) until DCS is provided with a copy of the court corrected order and money judgment summary;

(c) On a case in which services are being provided under ORS 25.080 and the order is an administrative order which has been entered with the court or a judicial order entered by the administrator, file a motion to correct the error. Until the error is corrected, the support case will be enforced per the judgment register OJIN;

(d) Notwithstanding subsection (b) of this section, the administrator may instead file a motion to correct the error if the child support rights, as defined in ORS 25.010, have been assigned to the state.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020 & ORS 25.080
Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 15-1988, f. & cert. ef. 2-24-88; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0040; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0080; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5040

137-055-5060

Billings for Support Payments

(1) Except as provided in subsection (2) of this rule, when the administrator determines that a support payment is due, a billing will be sent to the obligor.

(2) When support is paid by income withholding pursuant to ORS 25.378 for a period of six months, or by electronic payment withdrawal pursuant to OAR 137-055-5020 for a period of six months, the Division of Child Support may discontinue monthly billings unless:

(a) The obligor requests otherwise; or

(b) The administrator determines that monthly billings should continue.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020
Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 88-1980, f. & ef. 12-10-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0001; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0105; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5060

137-055-5080

Adding Interest Calculations to Individual Support Cases

(1) For a support case with an Oregon support order as the controlling order, the administrator shall add interest calculations to the case by using the establishment of arrears process set out in OAR 137-055-3240 under the following conditions:

(a) The party makes a written request that the interest be added to the case;

(b) The requesting party provides a month by month calculation showing support accrual, principal due and interest accrual for each month with total principal and interest due as separate totals at the end of the calculations; and

(c) The interest is calculated per ORS 82.010 from the date of entry of a judgment in Oregon.

(2) The administrator may limit adding interest to the case under section (1) of this rule to one time every 24 months.

(3) For a case with a support order from another state, the law of the state which issued the controlling order governs the computation and accrual of interest under the support order. Interest accrued from the state which issued the order may be added to the Oregon case by administratively reconciling the state's case record when interest amounts are provided to the Oregon Child Support Program (CSP) by the other state. The CSP shall send an informational notice to the parties.

(4) When the administrator has initiated a request to another state to establish a support order in that state or to enforce an already existing support order, the law of the state which issued the controlling order governs the computation and accrual of interest under the support order. If the controlling order was not issued by Oregon, interest accrued from the other state may be added to the Oregon case by administratively reconciling the state's case record when interest amounts are provided to the Oregon CSP by the other state. The CSP shall send an informational notice to the parties.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.167, ORS 82.010 & ORS 416.429
Hist.: AFS 6-1996, f. 2-21-96, cert. ef. 3-1-96; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0048; AFS 15-2001, f. 7-31-01, cert. ef. 8-1-01; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5080

137-055-5110

Child Attending School Definitions

As used in OAR 137-055-5120 and 137-055-5125, the following terms have the meanings outlined below:

(1) "Child attending school" means a child of the parties who is unmarried, is 18 years of age or older and under 21 years of age and is a student regularly attending school. Unless the child otherwise qualifies as a child attending school, a child attending school does not include:

(a) A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard (collectively known as the "armed forces") who is serving on active duty; or

(b) A member of the National Guard who is serving full-time National Guard duty.

(2) "Class order" means a monthly child support order amount for multiple children that does not specify an amount of support per child.

(3) "Normal break" means:

(a) Summer semester or term;

(b) The period of time between graduation from or completion of high school and the beginning of the next regularly scheduled term, semester, or course of study at a school;

(c) The period of time between the end and beginning of regularly scheduled consecutive school semesters, terms, or courses of study; or

(d) Any other scheduled break between courses of study that is defined by the school as a normal break.

(4) "Quarterly" means annual quarters ending on March 31, June 30, September 30, and December 31. This is the reporting schedule the Child Support Program may require for a child who is attending a school which does not have traditional terms or semesters, or has courses which last longer than six months.

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(5) "Regularly attending" means the child is enrolled in an educational course load of at least half-time as defined by the school.

(6) "School" means any of the following:

(a) An educational facility such as a high school, community college, four-year college, or university;

(b) A course of vocational or technical training, including Job Corps, designed to fit the child for gainful employment;

(c) A high school equivalency course, including (but not limited to), a General Educational Development (GED) program; or

(d) A school in grade 12 or below, including home schooling approved by the local school district.

(7) "Termination of official accounting functions" means the Division of Child Support shall cease to perform billing, accrual, distribution, and record-keeping functions for ongoing support with regard to the child attending school. If the order is a class order and there is an additional child(ren) for whom ongoing support is still ordered, termination of official accounting functions means:

(a) Any support paid directly to such child will cease and will be redirected to the obligee; and

(b) Support accrual for such child will be prorated to the other child(ren) for whom ongoing support is still ordered.

Stat. Auth.: ORS 25.020, & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 107.108

Hist.: AFS 23-2001, f. 10-2-01, cert. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5110; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5110

137-055-5120

Support for Child Attending School — Oregon Orders Entered On or After October 4, 1997

(1) The purpose of this rule is to define how the Division of Child Support (DCS) will apply the provisions of ORS 107.108, regarding support or maintenance for a child attending school, in performing its official billing, accrual, distribution, and record-keeping functions for ongoing support when:

(a) The most recent order or modification for support was entered on or after October 4, 1997; and

(b) The order or modification provides for support until the child is age 21 so long as the child is a child attending school in accordance with ORS 107.108.

(2) The terms used in this rule shall have the meanings set out in OAR 137-055-5110.

(3) DCS shall perform its official billing, accrual, distribution, and record-keeping functions for each child on a support obligation who qualifies as a child attending school after attaining age 18, unless the child:

(a) has failed to comply with the provisions set out in section (4) of this rule and the administrator has received a written objection from the obligor; or

(b) has failed to provide written notification as provided in section (7) of this rule.

(4) Beginning with the first full term or semester after the child attains age 18, or the first full term or semester after a pre-October 4, 1997 order is modified to include post October 4, 1997 provisions as set out in ORS 107.108, whichever occurs later:

(a) The child must submit the completed Child Support Program (CSP) Child Attending School Compliance Form to the obligor and to the administrator. The completed compliance form must be received by the obligor and the administrator within 30 calendar days from the first official day of classes for each term or semester. If the 30th day falls on a state holiday, a Saturday, or a Sunday, the compliance form must be received by the next working day. For schools which do not have traditional terms or semesters, or have courses which last longer than six months, the administrator may require that a compliance form be submitted "quarterly" in addition to within 30 calendar days from the first day of class.

(b) The child must maintain the equivalent of a cumulative "C" grade average or better as defined by the school or, if the child is still attending high school the child may have either a cumulative "C" grade average or better or a "C" grade average or better for each term or semester after attaining age 18;

(c) The child must submit, to the obligor and to the administrator, copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled;

(d) If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the child may send the obligor's copy of the documents to the administrator for the administrator to forward to the obligor. The child must submit a copy of the documents to the CSP per the time periods set out in subsection (a) of this section. The administrator shall

redact the following information prior to sending a copy of documents to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(5) Notwithstanding the form requirement of subsection (4)(a) of this rule, as of the Fall term or semester of 2002, the child may submit to the obligor and to the administrator, within the time frames set out subsection (4)(a) of this rule, the CSP Child Attending School Compliance Form with only the portion of the form "TO BE COMPLETED BY STUDENT/CHILD ATTENDING SCHOOL" completed, but the child must attach:

(a) An enrollment verification certificate from the school's contracted clearinghouse;

(b) Documentation from the school verifying grades of at least a cumulative "C" grade point average (or equivalent) as set out in subsection (4)(b) of this rule, such as:

(A) An official or unofficial transcript; or

(B) A report card which indicates a cumulative grade point average; and

(c) Copies of the grades for the last term or semester and a list of courses in which the child is currently enrolled.

(6) When a child is attending school and a "normal break" occurs between academic terms at the school, the obligor will continue to owe ongoing support and the DCS shall continue official accounting functions throughout such break if the case records show that the child intends to resume classes at the start of the first regular academic term following the break. The administrator may require the child to provide additional documentation if at least 120 days have passed since the end of the child's last term or semester.

(7) At least 30 days prior to the child's 18th birthday, the administrator shall send written notification to the obligee, the child, and, if appropriate, the Oregon Youth Authority (OYA) that unless the obligee or the child sends written notification to the administrator prior to the child's 18th birthday that the child will continue to attend school, DCS will terminate official accounting functions effective the date the child attains age 18.

(8) Upon receipt of the written notification from the obligee or the child that the child will continue to attend school, the administrator will send the Child Attending School Compliance Requirements, along with a copy of the CSP Child Attending School Compliance Form, to the parties and the child. Such notice shall:

(a) List all of the compliance requirements to continue to receive support as a child attending school;

(b) Include objection information;

(c) Advise the parties of their right to a change in circumstance modification in accordance with OAR 137-055-3420;

(d) Include distribution information for distributing support directly to the child; and

(e) Include information for the child to make a claim of risk for nondisclosure of information pursuant to ORS 25.020 and OAR 137-055-1160.

(9) DCS shall distribute support directly to the child unless good cause is found to distribute support in some other manner. For purposes of this section "good cause" may include:

(a) The child is in the care of the Oregon Youth Authority (OYA);

(b) The child provides written authorization for distribution to the obligee; or

(c) The court, administrative law judge or administrator orders otherwise.

(10) When there are multiple children for whom support is ordered, the amount paid directly to the child under section (9) of this rule shall be a prorated share.

(11) If a child attending school is in the care of OYA, any and all reporting duties of the child as outlined in this rule shall be the duty of OYA.

(12) DCS shall terminate official accounting functions on the case when one of the following conditions occurs:

(a) The obligee or child fails to provide written notification as required under section (7) of this rule;

(b) The child has failed to comply with section (4) of this rule, and the obligor has submitted a written objection under section (15) of this rule;

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(c) During a normal school break, the child has failed to provide additional documentation as requested under section (6) of this rule;

(d) The child sends written notice that the child no longer qualifies as a child attending school; or

(e) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the administrator advising that an authorized representative of the school sent a written notice to the administrator that the child no longer qualifies as a child attending school.

(f) The child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the administrator advising that OYA has notified the administrator that the child is no longer in the care of the OYA.

(13) Once DCS terminates official accounting functions on the case, the official accounting functions cannot be resumed except as provided in section (16) of this rule.

(14) When the administrator receives written notification from the child or authorized representative of the school that the child is no longer qualifies as a child attending school or notification from OYA that the child is no longer in the care of OYA, the DCS shall terminate official accounting functions on the case for any such child effective the date the notice is received by the administrator.

(15) If an obligor submits a written objection asserting that the child no longer is attending school, the administrator shall review the official records for compliance. The administrator will presume that the child's statutory reporting requirements as outlined in section (4) of this rule have been fulfilled if the administrator has record of a completed compliance form with any required documentation for the current or most recent, as appropriate, term or semester.

(a) If compliance has occurred according to case records, the administrator shall send a copy of the proof of compliance to the obligor. If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the administrator shall redact the following information prior to sending a copy to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(b) If compliance has not occurred according to case records, DCS shall terminate official accounting functions on the case for any such child effective the date the administrator receives the obligor's written objection and shall notify all parties of this termination.

(16) In any case, up until the child attains the age of 21, DCS shall resume official accounting functions upon receipt of a written statement from the obligor that the obligor wishes to continue paying ongoing support for such child. If such verification occurs, DCS shall inform all parties and resume its official accounting functions effective the payment due date following receipt of such verification. If the obligor later decides to stop paying ongoing support for such child, the obligor shall provide a written statement to the administrator and DCS shall terminate official accounting functions on the case for any such child effective the date the administrator receives the obligor's written statement and shall notify all parties of this termination.

(17) In any case, the administrator shall honor the provisions of a court or administrative order to reinstate or terminate the duty of support to a "child attending school" under ORS 107.108.

(18) If the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the administrator shall follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 107.108

Hist.: AFS 21-1991, f. 10-23-91, cert. ef. 11-1-91; AFS 26-1991, f. 12-31-91, cert. ef. 1-1-92; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 31-1992, f. 10-29-92, cert. ef. 11-1-92; AFS 18-1997(Temp), f. 9-23-97, cert. ef. 10-4-97; AFS 18-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0136; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5120

137-055-5125

Support for Child Attending School — Oregon Orders Entered Prior to October 4, 1997

(1) The purpose of this rule is to define how the Child Support Program (CSP) will apply the provisions of ORS 107.108 regarding support or maintenance for a child attending school, in performing its official billing, accrual, distribution, and record-keeping functions for ongoing support when:

(a) The last order or modification for support was entered prior to October 4, 1997; and

(b) The order or modification provides for support until the child is age 21 so long as the child is a child attending school in accordance with ORS 107.108.

(2) The terms used in this rule shall have the meanings set out in OAR 137-055-5110.

(3) The Division of Child Support (DCS) shall perform its official billing, accrual, distribution, and record-keeping functions for each child on a support obligation who qualifies as a "child attending school" after attaining age 18, unless the obligee or the child has failed to provide written notification as provided in sections (5) and (11) of this rule.

(4) When a child is attending school and a "normal break" occurs between academic terms at the school, the obligor will continue to owe ongoing support and DCS shall continue official accounting functions throughout such break if the case records show that the child intends to resume classes at the start of the first regular academic term following the break.

(5) At least 30 days prior to the child's 18th birthday, the CSP shall send written notification to the obligee, the child, and, if appropriate, the Oregon Youth Authority (OYA) that unless the obligee or the child sends written notification to the CSP prior to the child's 18th birthday that the child will continue to attend school, DCS will terminate official accounting functions effective the date the child attains age 18.

(6) Upon receipt of the written notification from the obligee or the child that the child will continue to attend school, the CSP will send the Child Attending School Compliance Requirements to the parties and the child. Such notice shall:

(a) List all of the compliance requirements to continue to receive support as a child attending school;

(b) Include objection information;

(c) Advise the parties of their right to a change in circumstance modification in accordance with OAR 137-055-3420; and

(d) Include information for the child to make a claim of risk for nondisclosure of information pursuant to ORS 25.020 and OAR 137-055-1160.

(7) Support shall be distributed to the child only upon order of the court or written permission of the obligee.

(8) The obligor, obligee and a child who has attained age 18 and is a child attending school may enter into a written agreement to apply the provisions which are applicable to support orders and modifications entered on or after October 4, 1997, as outlined in OAR 137-055-5120.

(9) DCS shall terminate official accounting functions on the case when one of the following conditions occurs:

(a) The obligee or child fails to provide written notification as required under section (5) of this rule;

(b) The obligor has submitted a written objection under section (11) of this rule and the obligee or child has failed to provide compliance documents as required by that section;

(c) The obligee or child sends written notice that the child no longer qualifies as a child attending school; or

(d) The obligee or child fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that an authorized representative of the school sent a written notice to the CSP that the child no longer qualifies as a child attending school.

(e) The child or the obligee fails to provide a valid compliance form within 30 calendar days from the date of a written notice from the CSP advising that OYA has notified the CSP that the child is no longer in the care of the OYA.

(10) When the CSP receives written notification from the obligee, child or authorized representative of the school that the child is no longer enrolled in school at least half time or notification from OYA that the child is no longer in the care of OYA, DCS shall terminate official accounting functions on the case for any such child effective the date the notice is received by the CSP.

(11) If an obligor submits a written objection asserting that the child no longer is attending school, the administrator shall send written notification

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tion to the obligee and child that a completed CSP Child Attending School Compliance Form must be received within 30 calendar days from the date of the administrator's written notification.

(a) If a valid compliance form is received within 30 days, the administrator will send a copy to the obligor. If there has been a finding and order of nondisclosure on behalf of the child pursuant to ORS 25.020, the administrator shall redact the following information prior to sending a copy to the obligor:

(A) Residence, mailing or contact address including the school name and address;

(B) Social security number;

(C) Telephone number including the school telephone number;

(D) Driver's license number;

(E) Employer's name, address and telephone number; and

(F) Name of registrar or school official.

(b) If the compliance form is not received within 30 days or does not show that child is in compliance, DCS shall terminate official accounting functions on the case for any such child effective the date the CSP receives the obligor's written objection, and shall notify all parties of this termination.

(12) The CSP shall resume official accounting functions for the child anytime prior to the child attaining the age of 21, if the obligee or child submits a valid CSP Child Attending School Compliance Form showing that the child is currently enrolled in school at least half time.

(a) Official accounting functions shall resume effective the date the CSP receives the completed form.

(b) The administrator shall establish arrears in accordance with OAR 137-055-3240, only upon the request of the obligee.

(13) Notwithstanding the CSP Child Attending School Compliance Form requirement of sections (11) and (12) of this rule, as of the Fall term or semester of 2002, the child may submit this Compliance Form with only the portion "TO BE COMPLETED BY STUDENT/CHILD ATTENDING SCHOOL" completed; but the child must attach an enrollment verification certificate from the school's contracted clearinghouse to the Compliance Form.

(14) In any case, up until the child attains the age of 21, DCS shall resume official accounting functions upon receipt of a written statement from the obligor that the obligor wishes to continue paying ongoing support for such child. If such verification occurs, the CSP shall inform all parties and resume official accounting functions effective the payment due date following receipt of such verification. If the obligor later decides to stop paying ongoing support for such child, the obligor shall provide a written statement to the CSP. The CSP shall treat such statement as an objection received under section (11) of this rule.

(15) In any case, the CSP shall honor the provisions of a court or administrative order to reinstate or terminate the duty of support to a "child attending school" under ORS 107.108

(16) If the most recent order or modification for support cites ORS 107.108 or otherwise provides for support of a "child attending school," the CSP shall follow the provisions of ORS 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 107.108

Hist.: AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 17-2002(Temp), f. 10-30-02, cert. ef. 11-1-02 thru 4-29-03; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5125; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5125

137-055-5220

Satisfaction of Support Judgments

The purpose of this rule is to define how the Division of Child Support (DCS) will credit "satisfactions of support judgment" in certain circumstances. This rule shall not be construed as limiting the authority of DCS to approve or credit a satisfaction of support judgment in other lawful circumstances not specified in this rule.

(1) When support payment records are kept by the Division of Child Support (DCS) of the Department of Justice (DOJ), an obligee may satisfy amounts indicated on the case records as past due by filing a properly-completed "satisfaction of support judgment" form with the administrator, subject to approval by DCS under the provisions of this rule; or in accordance with OAR 137-055-5240.

(2) When current support or arrears are assigned to the State of Oregon or to another state, and the obligor is seeking credit for support payments not made through DCS:

(a) DCS and its attorneys have authority to approve and sign satisfactions.

(b) This authority may be exercised only when the obligee has signed a satisfaction of judgment form which acknowledges that the support payment was received.

(3) DCS and its attorneys have authority to sign and approve satisfactions of judgment for money paid through DCS as payment of assigned support.

(4) DCS will record, on the case record, all properly-completed satisfactions of support not assigned, and all satisfactions ordered by a court or a hearing order, and all satisfactions for assigned support that are approved in accordance with this rule. DCS shall also promptly forward the satisfaction form to the appropriate clerk of the court, together with a certificate stating the amount of support satisfaction entered on the case record.

(5) Except when satisfied and approved by DCS and its attorneys or by a court or hearing order, DCS will not enter a satisfaction on a case record for support that has been assigned to the State of Oregon or another state.

(6) When DCS rejects a satisfaction in part or in full as provided in (5) above, DCS will send written notice to the obligor and obligee, by regular mail to the most recent address of record. Such notice will indicate the reason for the rejection.

(7) All satisfactions must contain the following:

(a) The full names of both the obligor and the obligee;

(b) The name of the Oregon county where the support order was entered;

(c) The Oregon CSP support case number, or the circuit court case number;

(d) Either:

(A) The total dollar amount to be satisfied; or

(B) The period of time for which past due support is satisfied;

(e) A statement that the satisfaction is only for child support and/or spousal support;

(f) The signature of the obligee, except for those satisfactions approved under sections (2) and (3) of this rule, where the obligee's signature is not required; and

(g) The date the form is signed.

(8) All signatures on "satisfactions of support judgment" must be notarized, except on court orders or on those satisfactions approved under sections (2) and (3) of this rule.

(9) Notwithstanding any other provision of this rule, DCS has the authority to file and execute a satisfaction, without the need to notarize such satisfaction, when all of the following are true:

(a) The obligor provides a sworn affidavit that the judgment has been paid in full, and

(b) DCS certifies that it has a complete payment record for the support payment judgment and that the payment records shows no arrears. DCS shall be considered to have a complete pay record if DCS has kept the pay record for the support judgment from the date of the first support payment required under the judgment, or if the obligee or the administrator established arrears for the time period when DCS did not keep the pay record on the case.

(10) When DCS receives a sworn affidavit under the provisions of section (9)(a) of this rule, DCS shall examine its support records and determine if it has the authority under section (9) of this rule to execute and file a satisfaction of judgment. DCS shall promptly notify the obligor if DCS determines that it does not have authority to execute and file a satisfaction of judgment. DCS shall also determine if any amounts due for support were not assigned to the state. If DCS determines that any amounts were not assigned to the state, DCS shall give notice to the obligee in the manner provided by ORS 25.085. The notice must inform the obligee that DCS will execute and file the satisfaction of judgment unless DCS receives an objection and request for hearing within 30 days after the date of mailing the notice.

(11) If the obligee requests a hearing under section (10) of this rule, a contested case hearing shall be conducted under ORS 183.310 to 183.550 before an administrative law judge.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 18.400 & ORS 25.020

Hist.: AFS 21-1978, f. & ef. 5-30-78; AFS 26-1979(Temp), f. & ef. 8-16-79; AFS 22-1980, f. & ef. 4-3-80; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-35-005; AFS 17-1991, f. & cert. ef. 8-29-91; AFS 9-1992, f. & cert. ef. 4-1-92; AFS 19-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 14-1996, f. 4-24-96, cert. ef. 5-1-96; AFS 28-1996, f. & cert. ef. 7-1-96; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0155; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5220

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137-055-5240

Credit for Support Payments not made to the Division of Child Support

(1) In accordance with ORS 25.020, on any support case where the obligor is required to pay support through the Division of Child Support (DCS), DCS shall not credit the obligor's support account for any payment not made through DCS, except as provided in ORS 25.020 and this rule.

(2) The other provisions of this rule notwithstanding, on any case where an order of another state is registered in Oregon under ORS Chapter 110 for enforcement only, and either the issuing state, as defined in ORS 110.303(9), or the obligee's state of residence has an active child support accounting case open, DCS does not have authority to give credit for payments not paid through Oregon DCS. In any such case, the obligor seeking credit must request credit from the issuing state or the obligee's state of residence, whichever has the active child support accounting case. DCS shall adjust its records to reflect credit for such payments only upon receiving notification from the issuing state or the obligee's state of residence, in writing, by electronic transmission, by telephone, or by court order, that specified payments shall be credited.

(3) DCS shall give credit for payments not made to DCS when:

(a) Payments are not assigned to the State of Oregon or to another state, and the obligor and obligee agree in writing that specific payments were made and should be credited;

(b) Payments are assigned to the State of Oregon, and all of the following additional conditions are true:

(A) The obligor and obligee make sworn written statements that specific payments were made;

(B) The obligor or obligee present canceled checks, or other substantial evidence, to corroborate that the payments were made; and

(C) The administrator has given written notice to the obligee, prior to the obligee making a sworn written statement under subsection (a), of any potential criminal or civil liability that may attach to an admission of receiving the assigned support. Potential criminal or civil liability may include, but is not limited to:

(i) Prosecution for unlawfully receiving public assistance benefits.

(ii) Liability for repayment of any public assistance overpayments for which the obligee may be liable.

(iii) Temporary or permanent disqualification from receiving public assistance, food stamp, or medical assistance benefits due to an intentional program violation being established against the obligee for failure to report, to the administrator, having received payments directly from the obligor.

(c) The administrator is enforcing the case at the request of another state, regardless of whether or not support is assigned to that other state, and that state verifies that payments not paid to DCS were received by the other state or by the obligee directly. Such verification may be in writing, by electronic transmission, by telephone, or by court order.

(d) An order of an administrative law judge, or an order from a court of appropriate jurisdiction, so specifies.

(4) To receive credit for payments not made to DCS, the obligor may apply directly to the administrator for credit, by providing the documents and evidence specified in section (3) of this rule.

(5) Except as provided in section (2) of this rule if the obligee or other state does not agree that payments were made, pursuant to subsection (3)(a) or (3)(c) of this rule, or does not make a sworn written statement under subsection (3)(b), the obligor may make a written request to the administrator for a hearing.

(a) An administrative law judge may order, by written final order following a hearing, that DCS shall credit the obligor's support account for a specified dollar amount of payments not made through DCS, or for all payments owed through a specified date.

(b) DCS shall credit the obligor's account to the extent specified by written order of an administrative law judge.

(c) Prior notice of the hearing and of the right to object shall be served upon the obligee in accordance with ORS 25.085.

(d) Prior notice of the hearing and of the right to object may be served upon the obligor by regular mail to the address provided by the obligor when applying for credit.

(e) Any such hearing conducted under ORS 25.020 and this rule is a contested case hearing in accordance with ORS 183.413 through ORS 183.470. Any party may also seek a hearing de novo in the Oregon circuit court.

(f) The other provisions of this section notwithstanding, an administrative law judge does not have jurisdiction under this section in cases where the administrator is enforcing another state's order.

(6) When an obligor wishes to request a contested case hearing, or when an obligor or obligee wishes to request a hearing de novo in the Oregon circuit court or to appeal a court order or a hearing order, responsibility for doing so rests solely with that obligor or obligee. Such responsibility includes preparation and filing of all forms and documents required by the court or administrative law judge, and payment of all fees required by the court. The administrator shall not have any such responsibility on behalf of the obligor or obligee, except as specifically required by law or administrative rule.

(7) Nothing in this rule precludes DCS from giving credit for payments not made through DCS when a judicial determination has been made giving credit or satisfaction, or when the person to whom the support is owed has completed and signed a "satisfaction of support judgment" form adopted by DCS in accordance with OAR 137-055-5220.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020

Hist.: AFS 42-1995, f. 1-28-95, cert. ef. 1-1-96; AFS 8-1996, f. 2-23-96, cert. ef. 3-1-96; AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0157; AFS 15-2002, f. 10-30-02, ef. 11-1-02; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5240; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5240

137-055-5400

Obligor Receiving Cash Assistance, Presumed Unable to Pay Child Support

(1) The purpose of this rule is to outline the responsibilities under ORS 25.245 of the administrator, relating to suspension of child support when an obligor is presumed unable to pay child support because the obligor is eligible for and receiving cash assistance. This rule applies to any support payment due on or after January 1, 1994 when support enforcement services are being provided under ORS 25.080.

(2) The Child Support Program shall identify obligors receiving cash assistance in any of the following programs administered in the State of Oregon by means of a computer match between the Child Support Enforcement Automated System (CSEAS) and Department of Human Services client maintenance system:

(a) Title IV-A cash assistance;

(b) General Assistance cash assistance;

(c) Oregon Supplemental Income Program cash assistance; or

(d) Supplemental Security Income Program payments by the Social Security Administration.

(3) Obligor who are eligible for and receiving cash assistance under section (2) of this rule will be referred by CSEAS to the administrator and the administrator will suspend accrual and billing for the period the obligor receives cash assistance under section (2) of this rule.

(4) The administrator, shall review CSEAS case referrals on a daily basis for new cases.

(5) Obligor who wish to have their support accrual suspended pursuant to this rule and who are receiving Title IV-A cash assistance or General Assistance cash assistance administered by another state or by a tribe, or who are receiving Supplemental Security Income Program payments by the Social Security Administration and who are not identified by means of a computer match pursuant to section (2) of this rule, shall provide to the administrator written proof of receipt of such cash assistance. Such written proof shall:

(a) Be provided by the obligor to the administrator to initiate suspension and every three months thereafter;

(b) Include the date the cash assistance payment was first made, the amount of the cash assistance for each and every month in which cash assistance was received, and the ending date, if known, of the cash assistance;

(c) Be official documentation, recognized by the issuing agency, that covers each and every month that cash assistance was received, including but not limited to a benefits award letter, deposit record or receipt.

(6)(a) When an obligor has provided written proof of receipt of cash assistance pursuant to section (5) of this rule, administrator shall, subject to section (8) of this rule, credit the case for arrears accrued from the date the obligor submitted written proof of receipt of cash assistance back to the date the cash assistance was first made, but not earlier than October 6, 2001;

(b) When an obligor notifies the administrator that the obligor is no longer receiving cash assistance, the administrator shall begin accrual and billing pursuant to the support order currently in effect with the next support payment due following the end of the last month that the obligor received public assistance;

(c) If the obligor fails to provide written proof of receipt of cash assistance pursuant to section (5)(a) of this rule, the administrator shall begin

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accrual and billing pursuant to the support order currently in effect with the next support payment due for the month following the month for which the obligor last provided written proof;

(d) If the obligor provides written proof of receipt of cash assistance pursuant to section (5)(a) of this rule after failing to provide timely written proof of receipt of cash assistance within three months, thereby causing the administrator to begin billing and accrual pursuant to subsection (c) of this section, support accrual may be suspended and arrears may be credited pursuant to subsection (a) of this section.

(7)(a) When a new case is referred, the administrator must send a notice to all parties to the support order within 30 days. The notice will contain a statement of presumption and include the following:

(A) A statement of the month in which cash assistance was first made;

(B) A statement that unless the party objects, that child support payments have ceased accruing beginning with the support payment due on or after the date the obligor began receiving cash assistance, but not earlier than January 1, 1994;

(C) A statement that the administrator will continue providing enforcement services, including medical support enforcement, if applicable, and services to collect any arrears;

(D) A statement that if the obligor ceases to receive cash assistance listed under section (2) of this rule that accrual and billing will begin with the next support payment due following the end of the last month that the obligor receives cash assistance;

(E) A statement that any party may object to the presumption that the obligor is unable to pay support by sending to the administrator a written objection within 20 days of the date of service;

(F) A statement that the objections must include a written description of the resource or other evidence that might rebut the presumption of inability to pay; and

(G) A statement that the entity responsible for providing enforcement services represents the state and that low cost legal counsel may be available.

(b) When an obligor provides written proof of receipt of cash benefits pursuant to section (5) of this rule and monthly support is accruing, the administrator must send a notice to all parties to the support order within 30 days. The notice will include a statement of presumption and:

(A) The information listed under subsection (a)(A) to (C) and (E) to (G) of this section; and

(B) A statement that if the obligor ceases to receive cash assistance under section (5) of this rule, accrual and billing will begin the month following the last month that the obligor received cash assistance or, if the obligor fails to provide written proof pursuant to section (5)(a) of this rule, accrual and billing shall begin with the next support payment due for the month following the month for which the obligor last provided written proof.

(c) Included with each notice under this section will be a separate form for the party to use if they choose to file an objection to the presumption that the obligor is unable to pay support.

(8)(a) The notice under section (7) of this rule will be served on the obligee by personal service or by certified mail. The notice will be served upon the obligor by regular mail. The administrator will document the service of all parties to the support order on the case record, and include the date of service;

(b) If a written objection is received by the administrator, the administrator shall not make a determination with regard to the objection. The administrator shall immediately set the matter for hearing before a court or an administrative law judge, unless the party withdraws the objection;

(c) If the court finds the presumption has not been rebutted, the court's finding will be part of the court record and the administrator does not have to file anything else with the court. If no objection is made, or if an administrative law judge finds that the presumption has not been rebutted, the administrator will file a copy of the notice or hearing order with the court. In all situations, the administrator will continue providing enforcement services, including medical support enforcement, if applicable, and services to collect any arrears; and

(d) If a court or an administrative law judge finds that the presumption has been rebutted, the administrator will narrate the finding on the case record, and will continue to provide all appropriate enforcement services. The administrator will either:

(A) Notify the administrator by electronic means that the presumption has been rebutted so the child support case is adjusted to reflect the findings; or

(B) The administrator may make the necessary adjustments to the case record to begin billing and accrual and to adjust the case to reflect the findings that the presumption has been rebutted.

(9) The administrator will refer to the information prior to establishing any child support obligation. If services to establish paternity are needed, the administrator shall provide those services, but will refer to the information prior to establishing any child support obligation.

(10) If an obligor ceases to receive cash assistance under section (2) of this rule, the administrator will send notice to all parties to the support order within 30 days. The administrator will document the case record with "O off PA as of (date)", will resume billing and accrual, if applicable. The billing and accrual will begin with the next support payment due following the end of the last month that the obligor receives cash assistance. The notice will include:

(a) A statement that cash assistance under section (2) has ended and the month that cash payment ended;

(b) A statement that by operation of law, the billing and accrual has resumed, if applicable, beginning with the next support payment due following the end of the last month that the obligor received cash assistance;

(c) A statement informing the parties of their right to request a review and modification of the support order based on a substantial change in circumstance or pursuant to ORS 25.287 or any other provision of law; and

(d) A statement that the administrator represents only the state and that low cost legal counsel may be available.

(11) If an obligor notifies the administrator that the obligor has ceased to receive cash assistance under section (5) of this rule, or if the obligor fails to provide written proof of receipt of cash assistance pursuant to section (5)(a) of this rule, the enforcement entity will send notice to parties to the support order within 30 days. The administrator will document the case record with "O off PA as of (date)," and will resume billing and accrual, if applicable. When an obligor notifies the administrator that the obligor is no longer receiving cash assistance under section (5) of this rule, the administrator shall begin accrual and billing pursuant to the support order currently in effect with the next support payment due following the end of the last month that the obligor received cash assistance. When the obligor fails to provide written proof of receipt of cash assistance pursuant to section (5)(a) of this rule, the administrator shall begin accrual and billing pursuant to the support order currently in effect with the next support payment due the month following the month for which the obligor last provided written proof. The notice will include:

(a) A statement that cash assistance under section (5) of this rule has ended and the month that the cash payment ended; and

(b) The information in section (10)(b) to (d) of this rule.

(12) The administrator responsible for the case will file the copy of the notice it receives in section (10) or (11) with the court within 30 days.

(13) An administrative law judge, or the court, may grant credit or satisfaction against arrears that accrue on or after January 1, 1994, for the month or months the obligor receives cash assistance if DCS has not suspended the accrual or credited the child support case.

(14) The presumption, nonaccrual and arrears credit rights apply to all Oregon child support orders and are not limited to cases where payments are made through DCS. However, the administrator is not responsible for providing services for cases not receiving support enforcement services under ORS 25.080. An obligor or obligee may, however, apply for support enforcement services at any time.

Stat. Auth.: ORS 25.245 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.245

Hist.: AFS 4-1994, f. & cert. ef. 3-4-94; AFS 20-1998, f. & cert. ef. 10-5-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0120; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5400; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5400

137-055-5420

Application for Credit and Satisfaction for Child Support Owning While Obligor Received Cash Assistance

(1) This rule contemplates an application for a credit and satisfaction pursuant to ORS 25.245(6) for any child support owing for months during which that obligor received cash assistance as defined in ORS 25.245(1).

(2) The following conditions apply to such application for credit and satisfaction:

(a) No credit or satisfaction shall be given for periods for which the court or administrative law judge has previously declined to suspend the obligor's child support obligation in an action under ORS 25.245;

(b) No credit or satisfaction contemplated by ORS 25.245(6) shall be given for child support coming due before January 1, 1994.

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(3) An application for credit and satisfaction may be made to the administrator as follows:

(a) The administrator shall provide a form "Application for Credit and Satisfaction";

(b) The application form shall be provided to any person receiving support enforcement services under ORS 25.080 who requests such application or who raises concerns or questions regarding child support arrears incurred while receiving cash assistance, as defined in ORS 25.245(1);

(c) The administrator shall provide notice to the obligee that an Application for Credit and Satisfaction has been made;

(d) Service of the Notice of Application for Credit and Satisfaction upon the obligee shall be the same as provided in ORS 25.245(2);

(e) The administrator shall provide the form of an Objection and Request for Hearing with service of the Notice of Application for Credit and Satisfaction upon the obligee;

(f) If an obligee completes and returns the Objection and Request for Hearing within 20 days, the administrator shall forward all relevant documents to the Office of Administrative Hearings;

(g) An administrative law judge shall schedule a hearing and advise the parties of the time, place and method of hearing;

(h) If, after 20 days, the obligee has not returned the Objection and Request for Hearing, the administrator shall submit the form of the appropriate order to the administrative law judge for entry.

(4) Nothing in this rule precludes application directly to the court for the relief provided by ORS 25.245(6).

Stat. Auth.: ORS 25.020, ORS 25.245 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 25.245

Hist.: AFS 23-1996, f. 5-31-96, cert. ef. 7-1-96; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0125; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5420

137-055-5520

Request for Credit Against Child Support Arrears for Social Security or Veterans' Benefits Paid Retroactively on Behalf of a Child

(1) In accordance with ORS 107.135, the purpose of this rule is to define the process for allowing a credit against child support arrears for Social Security or Veterans' benefits paid retroactively to the child, or to a representative payee administering the funds for the child's use and benefit.

(2) As used in this rule, Social Security benefits are as defined in OAR 137-050-0320.

(3) As used in this rule, Veterans' benefits include both apportioned Veterans' benefits and Survivors and Dependents Educational Assistance, as defined in OAR 137-050-0320.

(4) The request for credit against arrears shall be considered if submitted within 180 days of the date of the determination letter from the Social Security Administration (SSA) or the Department of Veterans' Affairs (DVA) regarding a retroactive payment on behalf of the child.

(5) A request for credit against a child support arrears for Social Security or Veterans' benefits paid retroactively on behalf of the child must be made either:

(a) With a request for a periodic review and modification or a substantial change in circumstance modification if there is a current support obligation for that child. The modification must have an effective date on or after October 23, 1999; or

(b) Independently of a request for a modification if there is no longer a current support obligation for that child.

(6) A request for credit against arrears made within the time frames set out in section (2) shall be treated as a request for a change of circumstances modification. The party may otherwise qualify for a modification pursuant to OAR 137-055-3420.

(7) Documentation of the SSA or DVA retroactive payment paid on behalf of the child shall be provided by either the obligor or the obligee.

(8)(a) The credit for Survivors and Dependents Educational Assistance shall be a dollar for dollar credit against the child support arrears; and

(b) The credit for Social Security and apportioned Veterans' benefits may be a dollar for dollar credit against the child support arrears.

(9) Notwithstanding section (8), the maximum credit allowed shall be limited to the amount of the child support arrears. In no circumstances shall the credit exceed the amount of the retroactive SSA or DVA payment made on behalf of the child.

(10) The administrator shall send to the parties by regular mail notice and proposed order of the intended action, including the amount to be credited and how the amount was calculated. Such notice shall advise the obligor

or and obligee of the right to an administrative hearing regarding this action:

(a) The obligor and/or obligee, within 30 days from the date of this notice, may request an administrative hearing as specified in the notice;

(b) The request for hearing must be in writing;

(c) The only basis upon which the obligor or obligee may object is that:

(A) The lump sum payment was not received; or

(B) The lump sum payment amount used in the calculation is not correct.

(d) Any appeal of the decision made by an administrative law judge shall be to the circuit court for a hearing de novo. The credit as determined by this rule shall be allowed by the circuit court on de novo hearing if the interests of justice require.

(11) If no timely written request for hearing is received, the order shall be filed in circuit court.

(12) If the credit determined in section(8) is less than the amount of arrears owed per section (9), the file credit shall be applied as follows:

(a) If none of the arrears are assigned to the state, the credit shall be applied to the family's unassigned arrears;

(b) If there are arrears assigned to the state and the child was receiving assistance during any time period covered by the retroactive payment per the SSA or DVA determination letter, the credit shall be applied in the following sequence:

(A) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(B) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;

(C) Family's unassigned arrears;

(D) Family's conditionally assigned arrears.

(c) If there are arrears assigned to the state and the child was not receiving assistance during any time period covered by of the retroactive payment per the SSA or DVA determination letter, the credit shall be applied in the following sequence:

(A) Family's unassigned arrears;

(B) Family's conditionally assigned arrears;

(C) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(D) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020 & ORS 107.135

Hist.: AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0159; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5520; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5520

137-055-6020

Application and Distribution of Support Payments

(1) For purposes of this rule, the following definitions apply:

(a) "Assistance" means cash assistance under Temporary Assistance for Needy Families (TANF) program, or foster care maintenance payments provided by the Department of Human Services (DHS), or cost of care provided by the Oregon Youth Authority.

(b) "Current support" is the monthly support amount ordered by a court or administrative process for the benefit of a child and/or a former spouse.

(c) "Family's conditionally-assigned arrears" is past-due support that accrues during non-assistance periods, and was not permanently assigned under pre-October 1997 assignments, which revert back to the family on either October 1, 2000, if the family terminates assistance prior to October 1, 2000, or on the date the family leaves the assistance program if on or after October 1, 2000. Family's conditionally-assigned arrears revert to state's temporarily-assigned arrears during periods that the family receives assistance.

(d) "Family's unassigned arrears" is past-due support which accrues after the family's most recent period of assistance, or at any time in the case where a family has never received assistance.

(e) "Family's unassigned arrears during assistance period" is past-due support which accumulates while a family receives assistance and exceeds the total amount of unreimbursed assistance paid to the family.

(f) "Future support" is an amount received which represents payment on current support for future months.

(g) "State's permanently-assigned arrears" is past-due support which accrues during the period the family receives assistance and past-due support which accrued before the family applied for assistance in pre-October 1997 assignments only.

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(h) "State's temporarily-assigned arrears" is past-due support assigned to the state during assistance periods, but which accrued during non-assistance periods, and were not permanently assigned under pre-October 1997 assignments. As of October 1, 2000, state's temporarily-assigned arrears revert to family's conditionally-assigned arrears during periods that the family is not receiving assistance.

(i) "Unreimbursed assistance" means the cumulative amount of assistance paid to a family or on behalf of a child(ren) for all months which has not been recovered by assigned support collections. The total amount of unreimbursed assistance that may be recovered is limited by the total amount of the assigned support obligation.

(2) Whenever support payments are assigned to the state, the state share of the payments shall be either:

(a) Distributed to the Department of Human Services if funds were expended to provide foster care assistance to the family;

(b) Distributed to the Oregon Youth Authority if funds were expended by the Oregon Youth Authority to provide care to a member of the family; or

(c) Retained by the Division of Child Support (DCS) if funds were expended to provide Temporary Assistance for Needy Families cash assistance to the family.

(3) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments shall be distributed to the Tribe as provided in 42 USC 657.

(4) Table 1 is included in this rule as an aid in understanding the arrearage types defined in section (1) of this rule. [Table not included. See ED. NOTE.]

(5) DCS shall distribute support payments to the family within two business days after receipt if sufficient information identifying the payee is provided, except for as follows:

(a) Support payments received as a result of tax refund intercepts shall be distributed within thirty calendar days of receipt or, if applicable, within fifteen calendar days of an administrative review or hearing. If the state is notified by the Secretary of the U.S. Treasury (the Secretary) or the Oregon Department of Revenue (DOR) that an offset on a non-assistance case is from a refund based on a joint return, distribution may be delayed, up to a maximum of six months, until notified by the Secretary or DOR that the obligor's spouse has been paid their share of the refund.

(b) Support payments received from a garnishment, issued pursuant to ORS Chapter 18, shall be held for 40 days if the garnishee is making a payment of other than wages or 120 days if the garnishee is making a payment of wages unless the obligor waives the right to make a challenge to a garnishment as set out in OAR 137-055-4520 or, if the obligor or any person who has an interest in the garnished property makes a challenge to garnishment, the support payment shall be held pending the court decision;

(c) Support payments for future support, per section (20) of this rule; or

(d) Support payments for less than five dollars may be delayed until a future payment is received which increases the payment amount due the family to at least five dollars.

(e) When a check has been dishonored, future support payments paid by personal check from that payor may be held in accordance with OAR 137-055-6240.

(6) The Oregon Child Support Program (CSP) may send support payments designated for the obligee to another person or entity caring for the child(ren); however, prior to doing so, the CSP shall require a notarized statement of authorization from the obligee or a court order requiring such distribution. The CSP shall change the payee to a private collection agent that the obligee has retained for support enforcement services only in accordance with OAR 137-055-6025.

(7) Child support and spousal support have equal priority in the distribution of payments.

(8) For Oregon support orders or modifications entered on or after October 4, 1997, a prorated share (unless otherwise ordered) of current support payments received within the month due shall be distributed directly to the child qualified as a child attending school per ORS 107.108 and OAR 137-055-5120. Any arrearage resulting from unpaid current support is a judgment owing to the obligee as the judgment creditor.

(9) If the obligor has a current support obligation for multiple children on a single case and those children have different assistance status and the order does not indicate a specified amount per child, current support payments shall be prorated based upon the number of children and their assistance status. Support payments in excess of current support for these cases shall be distributed per subsections (16)(b) through (e) of this rule. For example, the obligor has a current support obligation for three children of

\$300 per month. One child is not receiving assistance, one child is receiving cash assistance under the TANF program, and foster care maintenance payments are being made on behalf of the third child. A \$300 current support payment would be allocated as follows:

(a) \$100 to the family on behalf of the child not receiving assistance;

(b) \$100 to DCS on behalf of the child receiving cash assistance under the TANF program not to exceed the amount of unreimbursed assistance; and

(c) \$100 to the Department of Human Services for the foster care maintenance payments being made on behalf of the third child.

(10) Notwithstanding any other provisions of this rule, support payments received on behalf of an obligor with an open bankruptcy case shall be allocated and distributed as directed by the bankruptcy trustee, the obligor's bankruptcy plan and in accordance with federal bankruptcy law.

(11) DCS shall recover the fee charged by the Secretary for cases referred for Full Collection Services per OAR 137-055-4360 from any amount subsequently collected by the Secretary under this program. DCS shall credit the obligor's case for the full amount of collection. DCS shall reimburse the CSP for the prepaid fee, then distribute the balance per section (13) through (16) as applicable.

(12) Within each arrearage type in the sequence of payment distribution in sections (13) through (18) of this rule, DCS shall apply the support payment to the oldest debt in each arrearage type.

(13) DCS shall distribute support payments received on behalf of a family who has never received assistance to the family, first toward current support, then toward an support arrearage, not to exceed the amount of arrearage.

(14) DCS shall distribute support payments received on behalf of a family receiving assistance in the following sequence:

(a) Current support to the state, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(b) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(c) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(d) Family's unassigned arrears during assistance period unless the state is making foster care maintenance payments on behalf of the child(ren);

(e) If the state is making foster care maintenance payments on behalf of the child(ren), support payments in excess of unreimbursed assistance, up to the total support obligation owed, shall be reported as excess and be paid to DHS to be used in the manner it determines will serve the best interests of the child(ren).

(15) Prior to October 1, 2000, DCS shall distribute support payments received on behalf of a family who formerly received assistance in the following sequence:

(a) Current support to the family;

(b) Family's unassigned arrears;

(c) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;

(d) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance;

(e) Family's unassigned arrears during assistance period.

(16) On or after October 1, 2000, DCS shall distribute support payments received on behalf of a family who formerly received assistance in the following sequence:

(a) Current support to the family;

(b) Family's unassigned arrears;

(c) Family's conditionally-assigned arrears;

(d) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;

(e) Family's unassigned arrears during assistance period.

(17) Notwithstanding any other provisions of this rule, DCS shall distribute support payments received from federal tax refund intercepts in the following sequence:

(a) Fee charged by the Secretary. Despite the fee, DCS must credit the obligor's case for the full amount of collection. If any portion of the federal tax refund intercept payment will be applied to subsection (b), (c), or (d) of this section, the fee will be paid by DCS;

(b) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;

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(c) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance;

(d) Family's conditionally-assigned arrears. However, federal tax refund intercepts applied to family's conditionally-assigned arrears must be retained by the state, not to exceed the amount of unreimbursed assistance;

(e) Family's unassigned arrears;

(18) Notwithstanding any other provisions of this rule, DCS shall distribute support payments received from state tax refund intercepts in the following sequence:

(a) Fee charged by the DOR. Despite the fee, DCS must credit the obligor's case for the full amount of collection. If any portion of the state tax refund intercept payment will be applied to subsection (e), (f) or (g) of this section, the fee will be paid by DCS;

(b) Current support;

(c) Family's unassigned arrears;

(d) Family's conditionally assigned arrears;

(e) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(f) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;

(g) Parentage testing fee.

(19) Any excess funds remaining after arrears are paid in full shall be processed per OAR 137-055-6260 unless the obligor has elected in writing to apply the credit balance toward future support per section (20) of this rule.

(20) DCS shall distribute support payments representing future support on a monthly basis when each such payment actually becomes due in the future. No amounts shall be applied to future months unless current support and all arrearage has been paid in full.

(21) When an obligor has multiple support cases, the distribution sequence for each case shall be as set out in sections (13) through (18), but DCS shall allocate support payments to each of the multiple cases as follows:

(a) When an income withholder remits a single payment that is a combined payment intended to comply with more than one income withholding order against the obligor, but the obligor's income is not sufficient for the withholder to fully comply with each order to withhold income, issued pursuant to ORS Chapter 25, DCS shall allocate the amount received as follows:

(A) If the amount is not sufficient to pay the current support due on all of the obligor's support cases for which an order to withhold is in effect, each withholding case shall receive a proportionate share of the total amount withheld. For each case, DCS shall determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases for which an order to withhold is in effect, and then multiplying the resulting percentage by the total amount withheld.

(B) If the amount withheld from the obligor's income is sufficient to pay the current support due on all cases, but is not enough to fully comply with the order to withhold on all cases where arrearage is owed, the amount received shall be allocated as follows:

(i) Current support to each withholding case;

(ii) Equally to each withholding case where arrearage is owed.

However, no case shall receive more than the maximum allowable withholding amount for that case pursuant to OAR 137-055-4200 or, as appropriate, under an expanded income withholding pursuant to OAR 137-055-4220. Any remaining funds shall be equally distributed to the obligor's other cases. Further, no case shall receive more than the total amount of current support and arrearage owed on that case at the time this distribution is made.

(b) When support payments received from federal tax refund intercepts are not sufficient to pay the full arrearage amount on each case certified for federal tax offset, DCS shall allocate the amount received as follows:

(A) If the total amount received is not sufficient to pay the state's permanently-assigned arrears on all of the obligor's certified cases, each certified case shall receive an equal share. However, no case shall receive more than the state's permanently-assigned arrears on that case.

(B) If the total amount is sufficient to pay the state's permanently-assigned arrears on all certified cases, but is not enough to pay in full all the state's temporarily-assigned arrears on all of the obligor's certified cases, the amount received shall be allocated as follows:

(i) State's permanently-assigned arrears to each certified case;

(ii) An equal share of the remaining funds for each certified case. However, no case shall receive more than the state's temporarily-assigned arrears on that case.

(C) If the total amount is sufficient to pay the state's permanently assigned arrears and the state's temporarily-assigned arrears on all certified cases, but is not enough to pay in full the family's arrears on all of the obligor's certified cases, the amount received shall be allocated as follows:

(i) State's permanently-assigned arrears to each certified case;

(ii) State's temporarily-assigned arrears to each certified case;

(iii) An equal share of the remaining funds for each certified case.

However, no case shall receive more than the total amount of arrearage owed on that case at the time this distribution is made.

(c) When support payments received from state tax refund intercepts are not sufficient to pay the current support and full arrearage amount on each case certified for state tax offset, DCS shall allocate the amount received as follows:

(A) If the total amount received is not sufficient to pay the current support due on all of the obligor's certified cases, each certified case shall receive a proportionate share of the total amount received. For each case, DCS shall determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases certified for state tax offset, and then multiplying the resulting percentage by the total amount received.

(B) If the total amount received is sufficient to pay the current support due on all cases but is not sufficient to pay in full the family's arrears (both conditionally and unassigned arrears) on all of the obligor's certified cases, each certified case shall be allocated an equal share. However, no case shall receive more than the arrearage amount due the family on that case at the time this distribution is made.

(C) If the total amount is sufficient to pay the family's arrears (both conditionally and unassigned arrears) on all certified cases, but is not enough to pay in full all the state's permanently-assigned arrears on all of the obligor's certified cases, the amount received shall be allocated as follows:

(i) Family's arrears (both conditionally and unassigned arrears) on all certified cases;

(ii) An equal share of the remaining funds for each certified case toward state's permanently-assigned arrears. However, no case shall receive more than the state's permanently-assigned arrears on that case.

(D) If the total amount received is sufficient to pay both the family's arrears and the state's permanently-assigned arrears, but not sufficient to pay the state's temporarily-assigned arrears on all of the obligor's certified cases, the amount received shall be allocated as follows:

(i) Family's arrears (both conditionally and unassigned arrears) on all certified cases;

(ii) State's permanently-assigned arrears on all certified cases;

(iii) An equal share of the remaining funds toward state's temporarily-assigned arrears. However, no case shall receive more than the state's temporarily-assigned arrears on that case.

(E) Any remaining funds may be applied toward parentage testing fee.

(d) DCS shall allocate support payments made by personal check, money order, or cash per subsection (21)(f) of this rule unless the obligor designates in writing at the time of payment the amounts to be allocated to each case. DCS shall apply payments in excess of current support and arrearage toward future support per section (20) of this rule.

(e) DCS shall allocate support payments to one case, rather than a proportionate allocation, when:

(A) The support payment resulted from a garnishment, issued pursuant to ORS Chapter 18, on a particular case; or

(B) The support payment resulted from the sale or disposition of a specific piece of property against which a court awarded a specific obligee a judgment lien for child support; or

(C) The support payment resulted from a contempt order in a particular case; or

(D) Any other judicial order that requires distribution to a particular case.

(f) DCS shall allocate all other support payments received as follows:

(A) If the total amount is not sufficient to pay the current support due on all of the obligor's support cases, each case shall receive a proportionate share of the total amount received. For each case, DCS shall determine this amount by dividing the amount ordered as current monthly support on the case by the total combined amount ordered as current support on all of the obligor's support cases, and then multiplying the resulting percentage by the total amount received.

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(B) If the amount received is sufficient to pay the current support due on all cases, but is not enough to pay in full all cases where arrearage support is owed, the amount received shall be allocated as follows:

(i) Current support to each case;

(ii) Equally to each case where arrearage is owed. However, no case shall receive more than the total amount of current support and arrearage owed on that case at the time this distribution is made. Any remaining funds shall be equally distributed to the obligor's other cases.

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

Stat. Auth.: ORS 25.020 & Sec. 2 & 35, ch. 73 OL 2003

Stats. Implemented: ORS 18.645, 25.020, 25.150, 25.414 & 25.610

Hist.: PWC 851(Temp), f. & ef. 8-11-77; Renumbered from 461-004-0518; AFS 3-1978, f. & ef. 1-6-78; AFS 88-1980, f. & ef. 12-10-80; AFS 23-1987(Temp), f. 6-19-87, ef. 7-1-87; AFS 60-1987, f. & ef. 11-4-87; AFS 31-1989, f. 6-6-89, cert. ef. 6-9-89; Renumbered from 461-035-0003; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0410; AFS 6-2000, f. 2-19-00, cert. ef. 3-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0248; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; AFS 15-2002, f. 10-30-02, ef. 11-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6020

137-055-6025

Distribution of Support Payments to Private Collection Agencies

(1) For purposes of this rule, the following definitions apply:

(a) "Collection agency" means a collection agency as defined by ORS 697.005;

(b) "Enforcement action" means any action taken by a collection agency to ensure payment of support by an obligor, including but not limited to contact for the purposes of discussing payments by the collection agency in person or through mail, e-mail or telephone with the obligor, members of the obligor's household or the obligor's employer. "Enforcement action" does not mean investigative and locate services provided by a collection agency.

(c) "Legally entitled" means support payments that the Division of Child Support (DCS) is required to distribute to the obligee pursuant to OAR 137-055-.

(2) When the Oregon Child Support Program (CSP) is notified by a collection agency or an obligee that the obligee has entered into an agreement with a collection agency, the administrator shall send to the obligee the form developed pursuant to section (6) of this rule. Before DCS may adjust the payment records and begin forwarding support payments to the collection agency pursuant to section (3) of this rule, the obligee must first submit the following to the CSP:

(a) A copy of the agreement between the collection agency and the obligee, which shall include:

(A) The terms of the agreement;

(B) The date of the agreement;

(C) The amount of the fee or interest charged by the collection agency; and

(D) The full names of the obligee and obligor(s); and

(b) The form sent to the obligee by the administrator pursuant to this section, which must be signed by the obligee and notarized. The form shall include the following information for each of the child support cases for which the collection agency has been contracted to provide services:

(A) Authorization for DCS to disburse support payments to the collection agency;

(B) The child support case number;

(C) The obligee's and obligor's full names; and

(D) The names of the children on the child support case for whom the obligee is entitled to receive support.

(3)(a) Upon receipt of both the agreement between the collection agency and the obligee and the form submitted by the obligee pursuant to section (2) of this rule, DCS shall review the agreement to ensure that the agreement is in compliance with section (7) of this rule;

(b) If, upon review, DCS finds that the agreement is not in compliance with section (7) of this rule, DCS shall notify the obligee that the agreement is not in compliance and that DCS may not disburse child support payments to the collection agency;

(c) If, upon review, DCS finds that the agreement is in compliance with section (7) of this rule, DCS shall:

(A) Adjust the child support case record for disbursement of support payments to the collection agency. If support payments are currently being disbursed to a different collection agency, DCS shall adjust the child support case record for disbursement of support payments to the collection agency for which the obligee has most recently provided authorization;

(B) Send the notice developed pursuant to section (6)(b) of this rule to the obligor;

(C) Credit the obligor's account for the full amount of each support payment received by DCS;

(D) Disburse support payments received to which the obligee is legally entitled to the collection agency;

(E) Disburse the support payments to which the obligee is legally entitled to the collection agency for no more than 180 days following the date that DCS adjusts the child support case record. The obligee may request that DCS continue to disburse support payments to the collection agency for an additional time period not to exceed 180 days by again providing a copy of the agreement and form or notarized statement pursuant to section (2) of this rule.

(4)(a) DCS shall adjust its child support case record and stop disbursing support payments to a collection agency when:

(A) The obligee notifies the CSP that the agreement with the collection agency has been terminated;

(B) The obligee provides a copy of the termination agreement with the collection agency;

(C) The obligee requests in writing that the CSP stop disbursing support payments to the collection agency;

(D) The administrator is made aware that the collection agency is not in compliance with the provisions of section (7) of this rule; or

(E) The obligee authorizes, per section (3) of this rule, a new collection agency to receive support payments.

(b) DCS shall stop disbursing child support payments to the collection agency only after the child support case record has been adjusted following the date that notification from the obligee was received or the date the administrator is otherwise made aware that the collection agency is not in compliance with the provisions of section (7) of this rule. DCS shall at no time be responsible for returning support payments to the obligee that were disbursed to the collection agency prior to the child support case record having been adjusted following the date that notification from the obligee was received.

(5) The administrator may use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(6) The CSP shall develop:

(a) A form to be sent to an obligee when the obligee or the collection agency notifies CSP that the obligee has entered into an agreement with a collection agency. Such form shall include a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be eligible for support enforcement services from the CSP without paying the interest or fee that is typically charged by a collection agency; and

(b) A form to be sent to an obligor to notify the obligor when the obligee on a case has entered into an agreement with a collection agency and that DCS has been given authorization by the obligee to disburse support payments to the collection agency.

(7) A collection agency that has entered into an agreement with an obligee and in which DCS is disbursing support payments to the collection agency pursuant to this rule:

(a) May provide only investigative and locate services to the obligee;

(b) May disclose relevant information from services provided under subsection (a) of this section to the administrator for purposes of providing support enforcement services under ORS 25.080;

(c) May not charge interest or a fee for services exceeding 20 percent of each support payment received by the collection agency to which the obligee is legally entitled;

(d) May charge interest or a fee not to exceed 20% of each support payment distributed to or collected by a collection agency while the authorization was in effect as described in subsection (3)(c)(A) of this rule;

(e) May not initiate, without written authorization from the administrator, any enforcement action to collect the support judgment described in the authorization; and

(f) Shall report in writing to DCS the full amount of any payment collected as a result of an enforcement action taken within ten days of disbursing the payment to the obligee.

(8) A power of attorney given to a collection agency by an obligee does not change the rights and responsibilities of the parties or a collection agency as described in ORS 25.020 or this rule.

(9) The administrator shall not disclose any information from a child support record to a collection agency except as permitted in OAR 137-055-1140.

Stat. Auth.: ORS 25.020 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020

Hist.: AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6025; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6025

ADMINISTRATIVE RULES

137-055-6040

Right to Hearing to Contest Amount of Assigned Support

(1) A party who wants to contest the amount of support that the Division of Child Support (DCS) claims is assigned to the state on the party's child support case may do so by filing a written objection with DCS.

(2) Upon receiving a written objection, DCS shall conduct an administrative review of the case to verify the correct amount of support claimed as assigned and shall make any necessary corrections or adjustments to this amount as determined in the review.

(a) DCS shall complete its review and make a determination within 45 days from the date of receiving the written objection.

(b) DCS shall notify both the obligee and obligor, in writing, of this determination and of the right of each to contest the determination before an administrative law judge. The party must request such hearing in writing within 30 days of the date that DCS sends the written notice of its determination.

(3) Prior to any such hearing:

(a) DCS may contact or meet with the party to explain how DCS has computed the amount of support assigned to the state on the party's case.

(b) The party may withdraw their request for a hearing by notifying DCS in writing.

(4) Once a determination has been made, DCS will not conduct further review of the amount of past-due support that DCS reports as assigned to the state unless:

(a) DCS has made an accounting adjustment to the amount that DCS reports as assigned to the state, and a party then files a written objection to this adjusted amount; or

(b) The assistance status of the family has changed since the date of the last administrative review conducted under this rule, and a party then files a written objection.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020
Hist.: AFS 27-2000, f. & cert. ef. 11-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0250; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6040

137-055-6100

Writing Off Uncollectible Amounts of Assigned Child Support

(1) The Division of Child Support (DCS) may certify to the Secretary of State, according to procedures specified in ORS 293.235, 293.240, and 293.245, that certain child support debts are uncollectible. DCS may certify only those debts that meet all of the following criteria:

(a) The amount certified has been assigned to the state, under ORS 418.032, 418.042, 419B.406, or 419C.597;

(b) DCS has made all reasonable efforts to collect the amount certified and has determined that the amount is uncollectible;

(c) No additional amount of court-ordered or administratively-ordered child support is accruing or will accrue on the account; and

(d) The amount certified is either:

(A) Less than the minimum amount that DCS can certify to the Department of Revenue for collection under ORS 293.250 and to the Internal Revenue Service for tax refund interception, or

(B) Is a judgment which has expired under ORS 25.700.

(2) When the Secretary of State notifies DCS that any such debt is uncollectible and directs DCS to write off the debt, DCS shall write off the debt as directed.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020
Hist.: AFS 12-1989, f. 3-27-89, cert. ef. 4-1-89; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0685; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0170; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6100

137-055-6110

Expiration of Oregon Child Support Judgment

(1) For purposes of this rule, the following definitions apply:

(a) "Child support judgment" means the underlying judgment, decree or order that creates a child support obligation;

(b) "Judgment" means the judgment that results from an obligor's failure to make a periodic child support installment payment.

(2) Pursuant to ORS 25.700, any judgment that results from an unpaid child support obligation under a child support judgment entered after January 1, 1994, expires 25 years after entry of the child support judgment. The judgment and any entered or recorded lien thereof may not be renewed.

(3) For child support judgments entered before January 1, 1994, each unpaid periodic child support installment is a judgment in and of itself. Each judgment expires ten years after it becomes due unless it is renewed

or, per section (4) of this rule, has not expired as of January 1, 1994. Pursuant to ORS 25.700, a judgment that results from an unpaid child support obligation under a child support judgment entered before January 1, 1994, and any entered or recorded lien thereof, may be renewed for a ten-year period as provided in ORS 18.360. A judgment and any entered or recorded lien thereof may not be renewed if it has already expired.

(4) Pursuant to ORS 25.700, a child support judgment entered before January 1, 1994, creates a continuing personal obligation of the obligor that is enforceable for 25 years after the date of entry. However, a judgment is not enforceable if it already expired as of January 1, 1994.

(5) A judgment expires by operation of law, without any action required of a party.

(6) Unless otherwise specified in the language of a determination or order, an establishment of support arrears procedure or a modification of a support order does not constitute a renewal of judgment.

(7) Notwithstanding any other provisions of this rule, when the child support judgment being enforced was issued by another state, the expiration of judgment under the laws of this state or of the issuing state, whichever is longer, applies.

(8) The Department of Justice, Division of Child Support (DCS) shall be the entity responsible for auditing for expiration of judgment on cases receiving support enforcement services under ORS 25.080.

(9) If an audit result is that the expired judgment amount is greater than the current arrears on the case, DCS shall reduce the case arrears to zero.

(10) When an expiration of judgment audit is completed, DCS shall notify the parties if there is any change to the arrears as a result of the audit. The notice shall include:

(a) The current balance or zero, as appropriate, per section (9) of this rule;

(b) Information that a party may make a written request for an administrative review within 30 days of the notice.

(11) If a party requests an administrative review, DCS shall:

(a) Conduct the administrative review within 45 days from the date of receiving the objection to verify the case was adjusted correctly and shall make any necessary corrections or adjustments as determined in the review.;

(b) Notify both the obligee and the obligor, in writing, of the results of the review and of the right of each to contest the results before an administrative law judge. The party must request such hearing in writing within 30 days of the date that DCS send the results of the review.

(12) Prior to any such hearing:

(a) DCS may contact or meet with the party to explain how DCS has computed the amount of the support judgment that has expired on the party's case;

(b) The party may withdraw their request for a hearing by notifying DCS in writing.

Stat. Auth.: Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.700
Hist.: AFS 15-2001, f. 7-31-01, cert. ef. 8-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6110; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6110

137-055-6120

Satisfaction of Arrears for Less Than Full Payment

The Division of Child Support (DCS) may satisfy all or any portion of child support arrears that are assigned to the State of Oregon or to any other state, subject to the following requirements:

(1) DCS may satisfy all or any portion of assigned arrears only if one or more of the following circumstances apply:

(a) The arrears are a substantial hardship to the paying parent or that parent's household; or

(b) A compromise of amounts owing will result in greater collection on the case, considering the maximum amount that DCS could reasonably expect to collect from the obligor if no compromise was made and the probable costs of collecting that maximum amount; or

(c) The obligor has entered into an agreement with DCS to take steps to:

(A) Enhance the obligor's ability to pay child support; or

(B) Enhance the obligor's relationship with the child or children for whom the obligor owes the arrears.

(d) An error or legal defect has occurred that indicates a reduction may be appropriate.

(2) If all or any portion of the assigned arrears are the "state's temporarily-assigned arrears" as defined in OAR 137-055-6020, DCS may satisfy the amount only if the obligee consents and willingly signs the appropriate "satisfaction of support judgment" form.

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(3) If all or any portion of the assigned arrears are assigned to another state, DCS may satisfy that assigned amount only with the approval of that other state.

(4) DCS shall not sign any satisfaction for less than full payment of arrears until:

(a) The obligor has paid the full amount agreed to as appropriate consideration, and the obligor's payment instrument has cleared the appropriate financial institutions; or

(b) DCS has determined that the obligor has satisfactorily met, or is complying with, any agreement made with DCS pursuant to this rule.

(5) DCS shall record a summary of each agreement to satisfy arrears for less than full payment on the appropriate microimaging or computer file on the case.

(6) Any satisfaction executed under this rule shall be made pursuant to, and in full compliance with, ORS 18.400.

(7) The provisions of this rule notwithstanding, the obligee may satisfy all or any portion of unassigned arrears due the obligee, pursuant to OAR 137-055-5220.

(8) Nothing in this rule precludes the administrator from negotiating a satisfaction of arrears due or potentially due the obligee for less than full payment by the obligor, but such satisfaction shall take effect only when the obligee consents and willingly signs a "satisfaction of support judgment" pursuant to OAR 137-055-5220.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 18.400, ORS 25.020, & ORS 25.080

Hist.: AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0025; AFS 11-2000, f. 4-28-00, cert. ef. 5-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0150; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6120

137-055-6200

Adjusting Case Arrears When an Error is Identified

The purpose of this rule is to set out what the administrator will do when an error is identified which requires adjusting the arrears of a case.

(1) "Complete payment record" means that the Division of Child Support (DCS) has kept the payment record for the support judgment from the date of the first support payment required under the judgment, or the obligee or the administrator established arrears for the time period when DCS did not keep the payment record on the case.

(2) A notice shall only be sent as provided for in this rule when the amount of arrears to be adjusted is at least \$5.

(3) If the error occurred within the current billing cycle, the administrator shall adjust the arrears on the case record.

(4) If DCS has a complete payment record for the support payment judgment and the error occurred prior to the current billing cycle, the administrator shall adjust the arrears on the case record and send a notice to the parties advising of the change in the case arrears.

(5) If DCS does not have a complete payment record for the support payment judgment and the error occurred prior to the current billing cycle, but within the previous 180 days, the administrator shall:

(a) Send a notice to the parties that the administrator will adjust the arrears on the case record as indicated in the notice if neither party objects within a 30-day period following the date of the notice;

(b) If neither party objects within 30 days of the notice, the administrator shall adjust the arrears on the case record as indicated in the notice;

(c) If either party objects within 30 days of the notice, the administrator shall establish the arrears under the process found in ORS 25.167 or 416.429.

(6) If DCS does not have a complete payment record for the support payment judgment and the error occurred over 180 days ago, the administrator shall establish the arrears under the process found in ORS 25.167 or 416.429.

(7) Notwithstanding any other provision of this rule, if under a contingency order the error is due to a failure to accurately reflect on the case record the periods of residence of the child in state care, the administrator shall adjust the arrears on the case record and notify the obligor unless the Department of Human Services or Oregon Youth Authority directs otherwise.

(8) On a closed case:

(a) If all the arrears to be added to case are assigned to the state, the administrator shall not open the case if it is for a period of less than four months of accrual or less than \$500;

(b) If all the arrears to be added to case are assigned to the state and the arrears are for a period of a least four months or \$500, the administrator shall open the case and establish the arrears under the process found in ORS 25.167 or 416.429;

(c) If any of the arrears to be added to the case are owed to the obligee, the administrator shall send a notice to the obligee and, if the arrears are for at least \$25, asking if the obligee wants enforcement of the arrears. If the obligee requests enforcement, the administrator shall open the case and establish the arrears under the process found in ORS 25.167 or 416.429;

(d) Except as otherwise provided in OAR 137-055-6110, if the error was due to an accounting error of the administrator and the adjustment to arrears will cause a credit balance, the administrator shall return the excess amount to the obligor if the amount is at least \$5 and pursue an overpayment as appropriate; or

(e) If the error was not due to an accounting error of the administrator and the adjustment to arrears will cause a credit balance, the administrator shall send an informational notice to the parties.

(9) Notwithstanding section (5) or section (8), on any case in which the applicant for services has requested non-enforcement and the error only affects the amount of arrears owed to the obligee, the administrator shall update the case record appropriately.

Stat. Auth.: Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.020

Hist.: DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03

137-055-6220

Recovery of Overpayments on Support Accounts

(1) A child support overpayment in favor of the State of Oregon is created when the Division of Child Support (DCS) has transmitted money to an obligee or to a person or entity to whom the obligee has authorized to receive support payments due the obligee, and:

(a) The amount transmitted by DCS is more than the support obligation requires for current and/or past-due support, and DCS has returned the excess amount to the obligor; or

(b) DCS has misapplied money received by DCS, including but not limited to distributing money to an incorrect obligee or distributing money to an obligee when the money is assigned to the State of Oregon or a Tribe; or

(c) The amount transmitted by DCS is attributable in whole or part to a tax refund offset collection, all or part of which has been taken back by the Internal Revenue Service or the Oregon Department of Revenue; or

(d) The amount transmitted by DCS resulted from a withholding that exceeded the amount authorized by law.

(2) A child support overpayment in favor of the State of Oregon is also created when DCS has refunded money to an obligor that, due to DCS error, exceeds the amount that DCS should have refunded, or when DCS erroneously refunds money to the incorrect person. The amount of overpayment is the amount that DCS should not have refunded to the person receiving the refund.

(3) The person to whom DCS transmitted the money owes the amount of the overpayment to DCS, acting on behalf of the State of Oregon. For any such overpayment, DCS shall:

(a) Attempt to recover the overpayment if DCS has determined that it is cost-effective to do so;

(b) Notify the person, in writing, that the person owes the money to DCS, and specify the amount to be returned to DCS; and

(c) Give the person an opportunity to object.

(4) If the person does not file a written objection within 30 days of the date that DCS sent the written notification under subsection (3)(b) of this rule, the overpayment amount determined by DCS and specified in the written notification is final.

(5) If the person files a written objection within 30 days, and DCS does not resolve the objection to the person's satisfaction, an administrative law judge shall then hear the objection.

(a) An order by an administrative law judge is final.

(b) The person may appeal the decision of an administrative law judge to the circuit court for a hearing de novo. The appeal shall be by a petition for review, filed within 60 days after the date that the final hearing order has been mailed to the obligee.

(6) Notwithstanding the other provisions of this rule, if an agency of the State of Oregon or of another state owes the overpayment, that agency shall return the amount of the overpayment to DCS without right to prior notice or opportunity to object.

(7) Once the person has failed to object to the overpayment within 30 days of when DCS sent written notification of the overpayment to the person, or once any objection has been resolved, the amount of the overpayment is a liquidated debt and a delinquent amount owed to the State of Oregon. DCS may collect this debt through any means permitted by law, including but not limited to offsetting tax refunds claimed by the person, obtaining judgments for amounts owed and collecting through garnishment

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proceedings, and entering into voluntary repayment agreements with the person.

(8) DCS may refer the debt for collection to the Overpayment Recovery Unit of the Department of Human Services (DHS) or other appropriate state agency for collection, and delegate the authority to send the written notice in subsection (3)(b) of this rule to the person and to perform any or all other duties or functions required under this rule.

Stat. Auth.: ORS 25.125 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020 & ORS 25.125
Hist.: AFS 23-1983(Temp), f. & ef. 5-18-83; AFS 53-1983, f. 10-28-83, ef. 11-1-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0045; AFS 3-1992, f. 1-31-92, cert. ef. 2-1-92; AFS 16-1997, f. 9-2-97, cert. ef. 10-1-97; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0265; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6220; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6220

137-055-6240

Recovery of Dishonored Payments on Support Accounts

(1) The Division of Child Support (DCS) is authorized to forward payment to the obligee immediately when a payor of support, including either the support obligor or a payor on behalf of the obligor, presents payment to DCS.

(2) A debt in favor of the State of Oregon is created against the support obligor or other payor when:

(a) DCS receives a check (or other payment instrument) from an obligor, or other payor on behalf of the obligor; and

(b) DCS then transmits the appropriate amount from that check to the obligee; and

(c) The check of the obligor or other payor is then dishonored.

(3) When such a debt is created under section (2) of this rule, DCS shall, on behalf of the State of Oregon:

(a) Remove credit for the dishonored amount from the obligor's case record; and

(b) Attempt to recover the debt from the obligor or payor, if cost-effective to do so; and

(c) Notify the obligor or payor who presented the dishonored instrument, in writing, that the obligor or payor owes the amount specified to the State of Oregon and that the obligor or payor must pay the amount specified to DCS.

(4) Once DCS has sent the written notification required under section (3) of this rule, the amount of this debt is a liquidated debt and a delinquent amount owed to the State of Oregon, without any further right to an administrative review or hearing.

(5) DCS may recover this debt in any way permitted under law, including but not limited to offsets against tax refunds claimed by the payor, obtaining judgments for amounts owed and collecting through garnishment proceedings, and entering into voluntary repayment agreements with the payor. DCS may additionally recover any fees permitted by law.

(6) When a check has been dishonored, DCS may hold all future payments by personal check from that payor for 18 working days, or until the instrument clears the payor's financial institution, before forwarding payment to the obligee. DCS may waive this requirement after a one year period if no further payments from that payor have been dishonored, or if the dishonored payment was dishonored for reasons that DCS has determined were beyond the payor's control, such as an error on the part of the financial institution or on the part of DCS.

(7) DCS may refer the debt to the Overpayment Recovery Unit of the Department of Human Services for collection, for sending the written notice in subsection (3)(c) of this rule to the obligor or payor, and for performing any or all other duties or functions required under this rule.

Stat. Auth.: ORS 25.125 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020 & ORS 25.125
Hist.: AFS 53-1983, f. 10-28-83, ef. 11-1-83; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0046; AFS 16-1997, f. 9-2-97, cert. ef. 10-1-97; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0270; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6240; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6240

137-055-6260

Return of Overcollected Support Amounts

(1) When the Division of Child Support (DCS) receives a support payment on an account for which no current order exists for ongoing support, DCS shall apply the payment to any arrears the obligor may owe on the account. If any excess funds remain from the payment after any arrears are paid in full, and DCS has not forwarded the excess amount to the obligee, DCS shall return the excess amount to the obligor within 30 days of discovering the overcollection.

(2) On any account for which an ongoing support obligation exists, and DCS receives a payment that exceeds the total amount due for current

support and arrears and has not forwarded the excess amount to the obligee, DCS shall return the excess amount to the obligor under the following circumstances:

(a) When an income withholding order exists and the withholder does not receive or implement a notice from the administrator to reduce withholding to the amount of the current ongoing support obligation in a timely manner, such as may occur after all arrears are collected or after the ongoing support obligation is modified downward;

(b) When a state or federal tax refund is intercepted in an amount exceeding the amount owed for arrears; or

(c) When TANF cash assistance is being granted to the obligee or children on the support case, unless the obligor and the administrator agree otherwise.

(3) When DCS receives a payment that exceeds the total amount due for current support and arrears and has forwarded the excess amount to the obligee, DCS shall notify the obligee and obligor in writing within 30 days of discovering the overcollection that:

(a) A credit balance in the obligor's favor has resulted from the overcollection; and

(b) The obligee may, within 14 days of the date of the notice from DCS, submit a written request to DCS for an administrative review to determine if DCS's record-keeping and accounting related to calculation of the credit balance is correct.

(4) DCS shall conduct the administrative review within 30 days of receiving the obligee's written request, and shall send written notification to the parties of the results of the review.

(5) In any case where DCS is required to return overcollected funds to an obligor under sections (1) and (2) of this rule, the obligor may elect to forego the return of some or all of the overcollected funds and to instead use any credit balance amount thus established under this rule to offset the obligor's future ongoing support obligation. An obligor wishing to elect this option must notify DCS in writing before DCS has returned such funds to the obligor.

Stat. Auth.: ORS 25.020, ORS 25.125, & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020 & ORS 25.125
Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0272; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6260; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6260

137-055-6280

Refund of Improper Tax Refund Collection

(1) Whenever a federal or Oregon tax refund owed to a support obligor has been withheld to pay support arrears and that withholding was made in error or overcollects the amount owed, the Division of Child Support (DCS) shall refund the amount withheld in error or overcollected.

(2) DCS may authorize the amount withheld, or any part thereof, to be refunded to the obligor by means of an advance payment from its administrative account. Such advance payment shall be made:

(a) Immediately when the amount withheld by the taxing agency was improperly withheld as a result of an error by the administrator, and the obligor provides a copy of the notice that the tax refund was being withheld; or

(b) The child support arrears certified for purposes of tax refund intercept no longer exist or are less than the amount withheld from the tax refund; and

(c) Thirty (30) days have elapsed since the date of the notice to the obligor that the tax refund was being withheld and DCS has not received the obligor's tax refund from the taxing agency; and

(d) The obligor provides a copy of that notice to the administrator.

(3) When DCS has made an advance payment of a refund to the obligor or it will, upon receipt of the tax refund from the taxing agency, retain that refund up to the amount refunded to the obligor to reimburse its administrative account.

(4) If the DCS has already forwarded to the obligee, part or all of the amount withheld, DCS may establish an overpayment against the obligee for that amount, not to exceed the amount refunded to the obligor, pursuant to OAR 137-055-6220.

Stat. Auth.: ORS 25.020, ORS 25.610, ORS 25.625 & Sec. 2, ch. 73 OL 2003
Stats. Implemented: ORS 25.020, 25.610, ORS 25.620 & ORS 25.625
Hist.: AFS 35-1982(Temp), f. & ef. 4-27-82; AFS 77-1982, f. 8-5-82, ef. 9-1-82; AFS 93-1982, f. & ef. 10-18-82; AFS 66-1989, f. 11-28-89, cert. ef. 12-1-89; Renumbered from 461-035-0030; AFS 26-1994, f. & ef. 11-3-94; AFS 7-1997, f. & ef. 6-13-97; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0220; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-6280; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-6280

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137-055-7020

Interstate Cases

OAR 137-055-7020 through 137-055-7180 constitute the guidelines for processing interstate child support cases receiving support enforcement services under ORS 25.080.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2300; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7020

137-055-7040

Central Registry

(1) The interstate central registry as provided for at 45 CFR 303.7, is established within the Department of Justice, Division of Child Support. It is responsible for receiving, distributing and responding to inquiries on all incoming interstate requests.

(2) Within ten working days of receipt of an interstate request from an initiating state or other petitioner, the central registry shall:

(a) Ensure that the documentation submitted with the request has been reviewed to determine completeness;

(b) Forward the request for necessary action either to the State Parent Locator Service for location services or to the administrator for processing;

(c) Acknowledge receipt of the request and ensure that any missing documentation has been requested from the initiating state or other petitioner; and

(d) Inform the initiating state or other petitioner where the request has been sent for action.

(3) If the documentation received with a request is inadequate and cannot be remedied by the central registry without the assistance of the initiating state or other petitioner, the central registry shall forward the request for any action which can be taken pending necessary action by the initiating state or other petitioner.

(4) The central registry shall respond to inquiries from other states within five working days from receipt of the request for a case status review.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2310; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7040; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7040

137-055-7060

Initiating Oregon Administrator's Responsibilities (General Provisions)

(1) The administrator shall use a one state process to establish, enforce, or modify a support order, or to determine parentage whenever appropriate.

(2) Except as provided in section (1) of this rule, within 20 working days of determining that the obligor is in another state, and, if appropriate, upon receipt of any necessary information needed to process the case the administrator shall:

(a) Transmit to the central registry in the responding state sufficient, accurate information to act on the case by submitting any necessary documentation;

(b) Use the federally prescribed forms and procedures and may use computer generated replicas in the same format and containing the same information in place of the forms.

(3) The administrator shall transmit to the responding state any requested additional information or notify the responding state when the information will be provided within 30 calendar days of receipt of the request for information by submitting an updated form, or a computer-generated replica in the same format and containing the same information, any necessary additional documentation.

(4) The administrator shall notify the responding state within ten working days of receipt of new information on a case by submitting an updated form and any necessary additional documentation.

(5) The administrator shall make available the federally prescribed forms.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2320; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7060; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7060

137-055-7080

Oregon as Initiating State — Establishing Paternity, Support, Medical Insurance and Past-support

(1) The administrator shall use the provisions of ORS chapter 25 in its entirety, ORS 109.124, 109.125, 109.145, 109.165, 109.225, 109.230, 109.237, 109.250, 109.256, 109.260, 109.262, 109.264, ORS chapter 110 in its entirety, and ORS 416.400 to 416.470 to establish paternity, support and/or medical insurance in preference to all other remedies available under Oregon law.

(2) Whenever possible, the administrator shall assert jurisdiction over the parties pursuant to ORS 110.318 and use the one-state process.

(3) When a one-state process is not possible, the administrator shall transmit any documents required by state or federal law or rule to the state that can assert jurisdiction over the parties.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2330; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7080

137-055-7100

Direct Income Withholding — Oregon as the Initiating State

(1) The administrator may send direct income withholding to an employer located in another state when:

(a) The employer is located in a state which has adopted the direct withholding provisions of UIFSA; and

(b) Any interstate action against this obligor previously initiated to the employer's state has been withdrawn; and

(c) If required under OAR 137-055-7180, an Order Determining Controlling Order has been issued.

(2) Prior to sending a direct income withholding order, the administrator shall ensure that the obligor has received the same advance notice as is required on an intrastate withholding order.

(3) If the obligor files a written contest to the income withholding order in the employer's state, the administrator in Oregon who initiated the direct income withholding order may dismiss the direct income withholding order and initiate a two-state request for registration and enforcement.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110.394

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2340; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7100

137-055-7120

Responding Oregon Administrator Responsibilities — General Provisions

(1) Within 75 calendar days of receipt of an Interstate Child Support Enforcement Transmittal Form, a UIFSA Action Request Form or other alternative state form and documentation from its interstate central registry, the administrator shall:

(a) Provide location services in accordance with 45 CFR 303.3 if the request is for location services or the form or documentation does not include adequate location information on the obligor;

(b) If unable to proceed with the case because of inadequate documentation, notify the initiating state of the necessary additions or corrections to the form or documentation;

(c) If the documentation received with a case is inadequate and cannot be remedied without the assistance of the initiating state, the administrator shall process the case to the extent possible pending necessary action by the initiating state.

(2)(a) Within ten working days of locating the obligor in a different jurisdiction within the state, the administrator shall forward the form and documentation to the appropriate branch office and notify the initiating state and central registry of its action;

(b) Notwithstanding the provisions of subsection (2)(a) of this rule, the administrator is prohibited from forwarding cases when such action would unnecessarily delay services.

(3) Within ten working days of locating the obligor in a different state, the administrator shall:

(a) Return the form and documentation, including the new location, to the initiating state, or if directed by the initiating state, forward the form and documentation to the central registry in the state where the obligor has been located; and

(b) Notify its state's central registry where the case has been sent by documenting the case record.

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(4) The administrator shall provide any necessary services as it would in intrastate cases by:

(a) Establishing paternity in accordance with OAR 137-055-7140;

(b) Establishing a child support obligation in accordance with OAR 137-055-7140;

(c) Processing and enforcing orders referred by another state using appropriate remedies applied in intrastate cases in accordance with OAR 137-055-7140;

(d) Reviewing and adjusting child support orders upon request in accordance with OAR 137-055-7140; and

(e) Collecting and monitoring any support payments from the obligor and forwarding payments to the initiating state no later than 15 calendar days from the date of initial receipt in the responding state. The payment shall include sufficient information to identify the case, indicate the date of collection as defined under 45 CFR 302.51(a), and include the responding state's identifying code as defined in the Federal Information Processing Standards (FIPS) issued by the National Bureau of Standards of the Worldwide Geographic Location Codes issued by the General Services Administration.

(5) The administrator shall provide timely notice to the initiating state in advance of any formal hearings which may result in establishment or modification of an order.

(6) The administrator shall notify the initiating state within ten working days of receipt of new information on a case by submitting an updated form or a computer-generated replica in the same format and containing the same information.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2350; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7120; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7120

137-055-7140

Oregon as Responding State — Establishing, Enforcing and Modifying Support and Medical Insurance Orders

(1) The registering tribunal under UIFSA is the circuit court of Oregon. This does not preclude action by other tribunals.

(2) Administrative contested case hearings shall be conducted by an administrative law judge pursuant to the provisions of ORS 416.427.

(3) Whenever allowed under the law, the administrator shall use the provisions of ORS 416.400 to 416.470 in conjunction with the provisions of ORS chapter 110 to establish, enforce and modify support orders.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2360; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7140

137-055-7160

Oregon as Responding State — Establishing Paternity

(1) When a request to establish paternity is received from another jurisdiction, the administrator shall ensure that an affidavit of the mother naming the alleged father as a possible father has been received prior to initiating legal action.

(2) The administrator shall use the provisions of ORS 25.270, 25.275, 25.280, 109.124, 109.125, 109.145, 109.165, 109.225, 109.230, 109.237, 109.250, 109.256, 109.260, 109.262, 109.264, ORS chapter 110 in its entirety, and ORS 416.400 to 416.470 to establish paternity, support and medical insurance.

(3) The administrator may advance the costs of parentage tests and shall attempt to establish a judgment for those costs when an order establishing paternity is established.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729 & ORS 110

Hist.: AFS 24-1994, f. 10-26-94, cert. ef. 12-1-94; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2370; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7160

137-055-7180

Order Determining Controlling Order

(1) For purposes of identifying a single controlling order that will be entitled to prospective enforcement in this and every other state, the following procedures shall apply to all interstate proceedings or upon the written request of a party which meets the requirements set forth by ORS 110.333.

(2) For purposes of this rule, any order modified or issued after October 20, 1994, shall be interpreted as a modification of all orders issued prior to October 20, 1994, by operation of law, unless such order is challenged for want of personal jurisdiction.

(3) When the administrator cannot assert personal jurisdiction over the individual parties, the request for a controlling order determination shall be forwarded to the central registry of the state that can assert personal jurisdiction over the nonrequesting party.

(4) When the administrator can assert personal jurisdiction over the parties, the administrator shall issue an other than contested case order determining the controlling order. The order shall be served upon the parties by certified mail, return receipt requested, at the last known address of the parties. The order shall include:

(a) A statement including the basis for personal jurisdiction over the parties;

(b) A statement of the name of the parties and the name of the dependent child(ren) for whom support was ordered;

(c) A statement of each child support order which was considered, the county and state which issued the order and the date of the order;

(d) A statement of the order which the administrator determined to be the controlling order for prospective support and the basis upon which the tribunal made its determination;

(e) A statement that the controlling order determination is effective on the date the order is issued by the administrator;

(f) A reference to ORS 110.333;

(g) A statement that a party may submit further information and petition the administrator for reconsideration of the order within 60 days of the date of the order;

(h) A statement that OAR 137-004-0080 applies to any petition for reconsideration of the order determining the controlling order issued by the administrator;

(i) A statement that a party who is adversely affected or aggrieved by the order may appeal the order to the circuit court of Marion county or the county in which the petitioner resides or has a principal business office in accordance with ORS 183.484.

(5) When the administrator determines that none of the tribunals would have continuing, exclusive jurisdiction under ORS chapter 110, the administrator shall so notify the parties in writing and establish a new child support order which will be the controlling order.

(6) For the purposes of determining the Oregon county in which the administrator may enter the order determining the controlling order, the following provisions apply:

(a) If one or more Oregon court files exist for the same obligor and child, the order shall be entered in each existing court file;

(b) If an Oregon court file does not exist, the administrator shall enter the documents required by ORS 416.400 in the county where the party who lives in Oregon resides.

(7) Within 30 days after the expiration of the appeal or reconsideration period, the administrator shall certify copies of the order determining the controlling order and file one with each tribunal that issued or registered an earlier order of child support.

(8) Upon written receipt of an order determining the controlling order that a tribunal of this or another state properly issued, the administrator shall:

(a) Adjust the Oregon case record to cease prospective accrual on any noncontrolling order and initiate accrual on any controlling order which was issued or registered by an Oregon tribunal on the date specified in the order determining controlling order or, when not specified, in accordance with OAR 137-055-5040; and

(b) When one of the noncontrolling orders was issued by an Oregon tribunal, ensure that the order determining the controlling order is entered in the Oregon circuit court for the county which issued or entered the prior order.

(9) Nothing in this rule shall be construed to limit the authority of another tribunal in this or any other state in issuing an order determining a controlling order consistent with the laws and procedural rules which apply to cases heard before it.

Stat. Auth.: ORS 25.729 & Sec. 2, ch. 73 OL 2003

Stats. Implemented: ORS 25.729, ORS 110.333

Hist.: AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-2385; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-7180; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-7180

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Adm. Order No.: DOJ 11-2003

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

ADMINISTRATIVE RULES

Certified to be Effective: 10-6-03

Notice Publication Date:

Rules Amended: 137-050-0410

Subject: The amendment to OAR 137-050-0410 corrects a grammatical error.

Rules Coordinator: Shawn Irish—(503) 986-6240

137-050-0410

Health Care Coverage

(1) The child support obligation shall be adjusted for health care coverage provided for the joint child if health care coverage:

(a) Is ordered pursuant to Oregon Laws 2003, chapter 637, section 3 and OAR 137-055-3340, and the child is or 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;

(b) Is not ordered 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.

(2) Determine the cost to the parent of carrying health care coverage for only the parent's joint child(ren). 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 child(ren) only.

(3) 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 health care coverage premiums for that child provided by the obligated parent may be allowed with respect to that parent.

(4) The cost of providing health care coverage to insure the joint child(ren) and incurred by a parent's spouse or domestic partner may be attributed to the parent.

(5) 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 25.270 – ORS 25.290, ORS 180.340 & OL 2003, ch 637 § 3
Stats. Implemented: ORS 25.270 – ORS 25.290 & OL 2003, ch 637 § 3
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; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 11-2003, f. & cert. ef. 10-6-03

Adm. Order No.: DOJ 12-2003(Temp)

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

Certified to be Effective: 10-10-03 thru 4-7-04

Notice Publication Date:

Rules Amended: 137-001-0070

Subject: The amendments add to the information that must be contained in a petition to amend or repeal a rule. In addition, the amendments require agencies to invite public comment on potential negative economic impacts on businesses if a petition seeks amendment or repeal of a rule. The changes extend the time allowed to agencies to respond to petitions.

Rules Coordinator: Carol Riches—(503) 378-6313

137-001-0070

Petition to Promulgate, Amend, or Repeal Rule

(OAR 137-001-0070 was adopted by the Attorney General as required by ORS 183.390. Agencies must apply this rule without further adoption or amendment.)

(1) An interested person may petition an agency to adopt, amend, or repeal a rule. The petition shall state the name and address of the petitioner and any other person known to the petitioner to be interested in the rule. The petition shall be legible, signed by or on behalf of the petitioner, and shall contain a detailed statement of:

(a) The rule petitioner requests the agency to adopt, amend, or repeal. When a new rule is proposed, the petition shall set forth the proposed language in full. When an amendment of an existing rule is proposed, the rule shall be set forth in the petition in full with matter proposed to be deleted enclosed in brackets and proposed additions shown by boldface;

(b) Facts or arguments in sufficient detail to show the reasons for and effects of adoption, amendment, or repeal of the rule;

(c) All propositions of law to be asserted by petitioner.

(2) If the petitioner requests the amendment or repeal of an existing rule, the petition must also contain comments on:

(a) Options for achieving the existing rule's substantive goals while reducing the negative economic impact on businesses;

(b) The continued need for the existing rule;

(c) The complexity of the existing rule;

(d) The extent to which the existing rule overlaps, duplicates or conflicts with other state or federal rules and with local government regulations; and

(e) The degree to which technology, economic conditions or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule.

(3) If a petition requests the amendment or repeal of a rule, before denying a petition, the agency must invite public comment upon the rule, including whether options exist for achieving the rule's substantive goals in a way that reduces the negative economic impact on businesses.

(4) The agency:

(a) May provide a copy of the petition, together with a copy of the applicable rules of practice, to all persons named in the petition;

(b) May schedule oral presentations;

(c) Shall, in writing, within 90 days after receipt of the petition, either deny the petition or initiate rulemaking proceedings

Stat. Auth.: ORS 183.390

Stats. Implemented: ORS 183.341(1) & ORS 183.390

Hist.: 1AG 14, f. & ef. 10-22-75; 1AG 1-1981, f. & ef. 11-17-81; JD 6-1983, f. 9-23-83, ef. 9-26-83; JD 2-1986, f. & ef. 1-27-86; JD 5-1989, f. 10-6-89, cert. ef. 10-15-89; JD 7-1991, f. & cert. ef. 11-4-91; JD 6-1995, f. 8-25-95, cert. ef. 9-9-95; DOJ 12-2003(Temp), f. & cert. ef. 10-10-03 thru 4-7-04

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

Adm. Order No.: DMV 12-2003(Temp)

Filed with Sec. of State: 9-22-2003

Certified to be Effective: 10-1-03 thru 3-28-04

Notice Publication Date:

Rules Amended: 735-062-0095

Subject: This rule establishes how DMV will transition from a four-year period to an eight-year period for the renewal of driver licenses and identification cards (ID cards). Chapter 601, Oregon Laws 2003 (HBO 3231) establishes a higher fee for issuance, renewal and replacement of identification cards. After payment of DMV expenses, these fees will be transferred to the Elderly and Disabled Special Transportation Fund. This fund is used to provide necessary transportation to elderly and disabled persons who are unable to drive and need transportation for such things as medical appointments and grocery shopping. In conjunction with the effective date of the fee increase for ID cards, DMV is amending OAR 735-062-0095 to begin renewing ID cards for an eight-year period as authorized by ORS 807.130, so that the revenue generated by the fee increase is fully collected during the 2003-2005 biennium.

Rules Coordinator: Brenda Trump—(503) 945-5278

735-062-0095

Transition to Eight Year Renewal Cycle

As authorized by Oregon Laws 1999, Chapter 91, Section 9, the following rules are adopted as necessary for an orderly transition to an eight-year period for issuance and renewal of driver licenses, indorsements, identification cards, disability golf cart driver permits, and disabled person parking permits.

(1) The transition period begins on October 1, 2000 and ends on October 1, 2008. In order to complete the full transition to the eight-year period by October 1, 2008, after September 30, 2004 DMV will stop issuing renewal reminder notices that authorize a person to renew by mail. Licensees required to renew a driver license after September 30, 2004 must appear in person at a DMV office.

(2) Beginning October 1, 2000 DMV will issue an Oregon license or identification (ID) card for an eight-year period when:

(a) Issuing a first license or ID card;

(b) Issuing a license upon restoration of revoked driving privileges;

(c) Issuing a license upon restoration of cancelled driving privileges;

(d) Issuing a license or ID card when the previous license or ID card has been expired for more than one year; or

(e) Renewing the license of a person who is required to renew in person at a DMV field office.

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(3) DMV will renew a license for a four-year period when renewing the license of a person who is eligible to renew by mail whether the person renews by mail or in person at a DMV field office.

(4) Beginning October 1, 2003, DMV will renew an ID card for an eight-year period.

(5) Fees will be charged as follows:

(a) A license, indorsement or permit issued or renewed for a four-year period will be charged the applicable fee in effect prior to October 1, 2000; and

(b) A license, ID card, indorsement or permit issued or renewed for an eight-year period will be charged the applicable fee in effect after October 1, 2000.

Stat. Auth.: ORS 184.616, ORS 184.619, & section 9, ch. 91, OL 1999

Stat. Imp. ORS 807.130, ORS 809.310 & ORS 809.390

Hist.: DMV 12-2000, f. & cert. ef. 9-21-00; DMV 12-2003(Temp), f. 9-22-03, cert. ef. 10-1-03 thru 3-28-04

Adm. Order No.: DMV 13-2003

Filed with Sec. of State: 9-22-2003

Certified to be Effective: 9-22-03

Notice Publication Date: 7-1-03

Rules Amended: 735-072-0023

Rules Repealed: 735-072-0023(T)

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

Rules Coordinator: Brenda Trump—(503) 945-5278

735-072-0023

Provisional Driver Improvement Program

(1) Drivers who have reached 14 years of age but who have not yet reached 18 years of age are subject to the Provisional Driver Improvement Program. The Provisional Driver Improvement Program is designed to have a quick and immediate impact on young drivers who are convicted of traffic offenses or involved in preventable accidents. This rule applies to driver improvement violations and preventable accidents that occur when the driver is 14, 15, 16 or 17 years of age, and whose record review date occurs before the person has reached 18 years of age.

(2) On the record review date, DMV will review the person's driving record and restrict the driving privileges of any provisional driver who has:

(a) Two driver improvement violations; or

(b) Two preventable accidents; or

(c) A combination of one driver improvement violation and one preventable accident.

(3) The following apply to provisional restrictions:

(a) DMV will restrict the license or instruction permit of a provisional driver to drive only to and from or for employment, with no passengers except their parent, stepparent or guardian;

(b) DMV will impose the restriction for a period of 90 days regardless of whether the driver becomes 18 years of age during the restriction

period. DMV will notify the provisional driver by letter that the restriction will begin five days from the date of the letter. During the 90-day restriction period, the provisional driver must carry the restriction letter at all times while the person is driving a motor vehicle;

(c) A person who violates the Provisional Driver Improvement Program restriction, can be cited under ORS 807.010, operating in violation of license restrictions, which is a Class B traffic violation; and

(d) DMV will delay imposition of a restriction to driving privileges and place a pending restriction code on the person's driving record of any provisional driver:

(A) Whose driving privileges are cancelled, suspended or revoked until DMV grants driving privileges or fully reinstates driving privileges; or

(B) Who has not been granted driving privileges until DMV grants driving privileges in the form of a provisional driver license or instruction permit;

(C) Unless that provisional driver gets another driver improvement violation or preventable accident while under the age of 18. In that case, DMV will suspend the driving privileges or right to apply for driving privileges as set forth in subsection (6) of this rule. This suspension will supercede the pending restriction and the pending restriction code will be removed from the person's driving record.

(4) DMV may offer an interview with a DMV employee to a provisional driver whose driving privileges are restricted. The purpose of the interview is to re-evaluate the person's driving privilege based on a review of performance since the date of the incident that caused the restriction. Actions DMV may take after re-evaluating the person's performance include but are not limited to:

(a) Lessening or increasing the severity or duration of the restriction;

(b) Requiring the completion, within 90 days of the interview, of a driver improvement course;

(c) Requiring the person to complete and pass all or some of DMV's driver license examinations (knowledge test, vision test and drive test) within 60 days from the date of the interview directing the person to complete the examination and to notify DMV of the completion. If the person fails any licensing examination, DMV will suspend the person's driving privileges or right to apply for driving privileges under ORS 809.410(13).

(5) DMV will suspend driving privileges or the right to apply for driving privileges if a provisional driver has an interview with a DMV employee and does not comply with any requirement imposed by DMV. This suspension will continue until the provisional driver complies with the requirement imposed by DMV or for five years from the effective date of the suspension, whichever is earlier.

(6) DMV will suspend for six months the driving privileges or right to apply for driving privileges of any provisional driver who has:

(a) Three driver improvement violations;

(b) Three preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total three.

(7) For each subsequent driver improvement violation or preventable accident, DMV will suspend for six months the driving privileges or right to apply for driving privileges of a provisional driver, regardless of a previous or current Driver Improvement Program suspension(s), who has:

(a) Four or more driver improvement violations;

(b) Four or more preventable accidents; or

(c) A combination of driver improvement violations and preventable accidents that total four or more.

(8) DMV will suspend for one year the driving privileges or the right to apply for driving privileges of a provisional driver convicted of any offense listed in ORS 809.600(1). This suspension is for Provisional Driver Improvement Program purposes and is in addition to any suspension or revocation imposed because of the specific conviction.

(9) The suspension period for those suspensions imposed under sections (6), (7) and (8) of this rule will be imposed for the full suspension period, regardless of whether the provisional driver becomes 18 years of age during the suspension period. A suspension of driving privileges or the right to apply for driving privileges under this rule shall run concurrently with any other suspension, revocation, or cancellation in effect at the time the suspension begins. This section is applicable to suspensions imposed on or after June 30, 2002.

Stat. Auth.: ORS 184.616, ORS 184.619 & 809.480

Stats. Implemented: ORS 809.480

Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 7-2003(Temp), f. 5-14-03, cert. ef. 5-15-03 thru 11-10-03; DMV 13-2003, f. & cert. ef. 9-22-03

ADMINISTRATIVE RULES

Department of Transportation, Rail Division Chapter 741

Adm. Order No.: RD 3-2003

Filed with Sec. of State: 9-18-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 5-1-03

Rules Adopted: 741-100-0030, 741-115-0070, 741-115-0080, 741-120-0025, 741-125-0030

Rules Amended: 741-100-0010, 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, 741-200-0020, 741-200-0030, 741-200-0040, 741-200-0050, 741-200-0060, 741-200-0090

Rules Repealed: 741-200-0070

Subject: This rulemaking represents a general updating of the Rail Crossing Safety rules, tables and figures in Chapter 741, Divisions 100 through 200. There have been numerous changes within the railroad industry and crossing safety community, since their last revision in 1983. Significant staff time is being spent addressing crossing safety issues that would be better set forth in the rules.

Rules Coordinator: Brenda Trump—(503) 945-5278

741-100-0010

Measurements

Unless otherwise specified, measurements used in these rules refer to the distance from the centerline of the nearest track or roadway to the centerline of the nearest signal mast, post or other structure.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-042-00001; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-100-0020

Definitions

As used in Divisions 741-100 through 200 and 741-600 of these rules, the following definitions apply:

(1) "Alter" means any change to the roadway or tracks at a crossing that materially affects use of the crossing by railroad equipment, vehicles, or pedestrians. Alterations include, but are not limited to: adding or removing tracks; changing the width of the roadway; installing or removing protective devices; creating an additional travel lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle facilities; or changing grade, including superelevation, if sufficient to necessitate a change of the grade of the railroad or highway being crossed.

(2) "AASHTO" means the American Association of State Highway and Transportation Officials, 2001, A Policy on Geometric Design of Highways and Streets, Fourth Edition.

(3) "Bicycle Facilities" is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including shared roadway not specifically designed for bicycle use.

(4) "Bicycle Lane" has the meaning given in Section 1A.13 of the MUTCD.

(5) "Crossing" means the area affecting or affected by the intersection of a highway with a track or tracks of a railroad or a rail-fixed guideway system.

(6) "Curb" means standard curb as per Oregon Standard Drawing No. ERD700.

(7) "Grade Crossing" means a highway-rail grade crossing as defined in Section 1A.13 of the MUTCD.

(8) "Guardrail" means a device as depicted in Oregon Standard Drawing No. ERD445.

(9) "Highway" has the meaning given that term in ORS 824.200(2).

(10) "Illumination" means a system of luminaires arranged in a unique pattern (see Figure 8) to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness. [Figures not included. See ED. NOTE.]

(11) "Interconnection" is as defined in Section 8A.01 of the MUTCD.

(a) "Preemption" is as defined in Section 8A.01 of the MUTCD.

(b) "Advance Preemption" is as defined in Section 8A.01 of the MUTCD.

(c) "Simultaneous Preemption" is as defined in Section 8A.01 of the MUTCD.

(12) "Maintenance" includes but is not limited to the repair, replacement, alignment, cleaning of protective devices and other actions necessary to assure the proper warning is conveyed to users of the crossing. It also includes the required power to properly activate and operate the protective devices. Minor changes resulting from the maintenance of surface, grade, and alignment, or the replacement in kind of existing signs and signals are not alterations. See OAR 741-120-0020 regarding maintenance of grade crossing surfaces.

(13) "MUTCD" means the Manual on Uniform Traffic Control Devices 2000 Millennium Edition, December 2000, incorporating Revision No. 1 dated December 28, 2001, and Errata No. 1 dated June 14, 2001, as adopted by the State of Oregon (Oregon Supplements March 2002).

(14) "Multi-use path" means shared-use path as defined in Section 1A.13 of the MUTCD.

(15) "Public authority" has the meaning given to the term "public authority in interest" in ORS 824.200(7).

(16) "Rail-Fixed Guideway System" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley or automated guideway used primarily for carrying passengers.

(17) "Railroad" has the meaning given that term in ORS 824.020(2) and 824.200(8).

(18) "Roadway" has the meaning given in Section 1A.13 of the MUTCD.

(19) "Safe Stopping Distance" (SSD) means the design stopping sight distance as set forth in AASHTO 2001, Exhibit 3-1 (see Table 1). [Table not included. See ED. NOTE.]

(20) "Separated Crossing" means a crossing where the highway and railroad are not at common grade. There are two types of separated crossings:

(a) "Overcrossing" means the highway is above the railroad.

(b) "Undercrossing" means the railroad is above the highway.

(21) "Shoulder" means that portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of subbase, base, and surface courses.

(22) "Sidewalk" means that portion of a grade crossing set aside for use by pedestrians. A sidewalk is part of a grade crossing, if its nearest edge is within 25 feet of the edge of the roadway.

(23) "Sight Distance" means the distance from the railroad-highway grade crossing, measured along the railroad, that a train must become visible to a motorist who is at the SSD.

(24) "Traffic Signal Preemption Control" is as defined in Section 4A.02, 20 and 39 of the MUTCD.

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

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

Stat. Auth.: ORS 823 & ORS 824

Stats. Implemented: ORS 824.020 & ORS 824.200

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-042-0002; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-100-0030

Adoption of Tables and Figures Related to Railroad-Highway Crossings

For the purposes of OAR chapter 741, division 100 through division 200, Tables 1 through 3 and Figures 1 through 10 are hereby adopted and made a part of these rules.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stat. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-105-0010

Crossings to be Numbered

(1) All public crossings shall be assigned crossing numbers by the Department.

(2) Where trackage is located in or along city streets, each street intersection shall be considered a crossing. Where streets are not through, but terminate at the street upon which the railroad is located, the intersection shall be considered a crossing. Where streets are through but are offset, they shall be considered as two crossings. However, if the distance between their centerlines is not greater than the width of the street, they shall be considered as one crossing, but the name of each street shall be identified.

(3) Where main, branch line or lead tracks are located in or along city streets and spur tracks take off from the main, branch or lead track, such

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track turnout across the street shall be reported as a separate crossing unless already identified as a portion of an intersecting street crossing.

(4) Crossings with tracks not owned by a railroad shall be numbered. See OAR 741-105-0020(13).

(5) Separated crossings shall be numbered.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.204

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0005; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-105-0020

Method of Assigning Numbers

(1) The crossing identification numbers assigned by the Department shall consist of:

(a) Numerals and/or letters indicating the railroad and branch, followed by a hyphen; and

(b) Numerals indicating the milepost designation. (For example: "2A-341.70" identifies the crossing of the public highway at milepost 341.70 of the main line of Union Pacific Railroad Company).

(2) The form of number specified in subsection (1)(b) of this rule shall be used on all crossings involving main or branch line tracks, including all secondary tracks. These tracks shall be grouped and identified by the main or branch line number, except:

(a) Tracks crossing the same street or highway, at a distance of two hundred feet or more from the nearest track, shall be identified as a distinct and separate crossing and assigned an individual number; or

(b) At a multiple track crossing where train movements on certain tracks do not activate the automatic protective devices installed at one or more of the tracks, the passively protected track(s) shall be assigned a separate identification number.

(3) All track crossings of highways by other than main or branch line tracks that are to be separately numbered (see section (2) of this rule), shall be numbered in the same manner as main or branch line crossings, except that the suffix "C" shall be added (for example: "2A-341.70-C"). The mileage used shall be measured along the track from the point switch on the main or branch line.

(4) Separated crossings shall be numbered in the same manner as grade crossings. The suffix "A" indicates a highway above the track (overcrossing). The suffix "B" indicates a highway below the track (undercrossing).

(5) In cases of separated crossings on other than main or branch line tracks, the combined suffix "AC" or "BC" shall be used as designations for such grade separation structures.

(6) Multi-use paths shall be numbered in the same manner as other crossings, except that the suffix "D" shall be added. Multi-use path separated crossings shall be identified by the combined suffix "AD" or "BD" as applicable. Bicycle lanes will not be differentiated by a specific number.

(7) Public pedestrian crossings (other than those pedestrian crossings at railroad stations, and those within 25 feet from edge of roadway to nearest edge of a sidewalk at a vehicle crossing) shall be numbered in the same manner as other crossings, except that the suffix "E" shall be added. Pedestrian separated crossings shall be identified by the combined suffix "AE" or "BE" as applicable.

(8) Alleys shall be numbered in the same manner as other crossings, except that the suffix "F" shall be used. Alley separated crossings shall be identified by the combined suffix "AF" or "BF" as applicable.

(9) Numbers and letters used to identify the various railroads and branches within the state are as shown in **Table 2**.

(10) All milepost designations shall be rounded to the nearest hundredth of a mile.

(11) Except where necessary to avoid use of multiple ownership designations on a continuous line (see **Table 2**), crossings on jointly used tracks shall be assigned to the owning railroad. Where ownership is joint, the number shall be assigned to the operating railroad. In those cases where ownership is joint, and the line is operated by two or more railroads, numbers shall be consistently assigned to one designated railroad.

(12) Mileage used shall be consistent with milepost numbers installed on the line. If no mileposts are actually installed on the line, mileage then shall be computed from the principal terminal station of the railroad.

(13) Crossings involving tracks not owned by a railroad shall be numbered to correspond with the numbering system applicable to the railroad that performs switching or other service on such tracks, consistent with the provisions of section (11) of this rule.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0010; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-105-0030

Display of Numbers at Crossings

After assignment of identification numbers, and notice to the railroads, each railroad shall paint or otherwise place the identification on the protective device or other structure at each crossing of its track. The number shall be of sufficient size as to be legible and shall thereafter be maintained in a legible condition. In all matters pertaining to any crossing brought to the attention of the Oregon Department of Transportation, reference shall be made to the assigned number. A recommended form of marking is shown in **Figure 1**. New crossings shall be so marked within 60 days after the crossing is placed in service. Existing crossings, having been redesignated, shall be so marked within 12 months of notice of redesignation.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-042-0015; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0010

Purpose and Scope of Rules

OAR 741-110-0020 through 741-110-0090 and 741-115-0010 through 741-115-0080 provide uniform standards for the location and type of protective devices to be installed and maintained at grade crossings.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-042-0045; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0020

Application of Rules to Existing Protective Devices

(1) Protective devices installed on or after October 1, 2003, shall comply with these rules.

(2) Except as required by OAR 741-110-0050(4), protective devices installed at grade crossings are deemed to be in compliance with the rules and regulations of the Department, if the installations were performed in accordance with the rules in effect at the time of their installation.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 4-8-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0055; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0030

Standard Protective Devices

(1) The devices listed in sections (2), (3), (4), (5), (6), and (7) of this rule are "standard protective devices."

(2) Passive Devices:

(a) Standard No. 1 (Crossbuck) is sign R15-1 as set forth in Section 8B.02 of the MUTCD.

(b) Standard No. 1S (Vehicle STOP Sign) is sign R1-1 as set forth in Section 2B.04 of the MUTCD.

(c) Standard No. 1T (Figure 2) (Railroad STOP Sign) is a fixed rectangular sign that shall bear the word "STOP" in white reflective letters on red reflective material, or in black letters on white reflective material.

(d) Standard No. 1M (Multiple Tracks Sign) is sign R15-2 as set forth in Section 8B.02 of the MUTCD.

(e) Stop Clearance Line is a stop line as set forth in Section 3B.16 of the MUTCD, which is 24 inches wide.

(f) "Illumination" (Figure 8) is a system of luminaires arranged in a unique pattern to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(3) Active Devices at Grade Crossings:

(a) Standard No. 2 (Flashing Light Signal) is as set forth in Section 8D.02 of the MUTCD, which has an audible warning device. For additional specifications for Standard No. 2, refer to subsections (e) and (f) of this section.

(b) Standard No. 2B (Cantilevered Flashing Light Signal) is as set forth in Section 8D.03 of the MUTCD, which has an audible warning device. For additional specifications on Standard No. 2B, refer to subsections (e) and (f) of this section.

(c) Standard No. 2P (Figure 3) (Multi-use Path Flashing Light Signal) is a signal that shall sound an audible warning device and alternately flash two 12-inch diameter, vertically mounted, red lights in both directions along the multi-use path so as to provide warning of an approaching train. For additional specifications on Standard No. 2P, refer to subsections (e) and (f) of this section.

(d) Standard No. 4 (Automatic Gate Signal) is as set forth in Section 8D.04 of the MUTCD.

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(e) Light units on Standard Nos. 2, 2B and 2P shall be aligned so that insofar as it is practical to do so, at least one full 12-inch diameter red light shall be visible when viewed from any point on the roadway within the safe stopping distance.

(f) Unless otherwise specified, 12-inch diameter roundels (lenses) on Standard Nos. 2, 2B and 2P, if incandescent bulbs are used, shall be as follows:

(A) Front light units: roundel rated with a 30-degree horizontal and 15-degree downward spread.

(B) Back light units: roundel rated with a 70-degree horizontal spread.

(C) Cantilevered front and back light units: roundel rated with a 20-degree horizontal and 32-degree downward spread.

(g) Traffic Signal Preemption Control is as set forth in Section 8D.07 of the MUTCD. Traffic Signal Preemption Control is required when railroad tracks are located on a roadway within 215 feet of a highway/highway intersection that is equipped with vehicle traffic signals. The distance is measured from the nearest rail at the crossing to the nearest vehicle stop location at the highway/highway intersection. Light rail transit lines, when operated in a street running mode, along with other traffic, may be exempted from this preemption requirement.

(4) Auxiliary Devices. The Department may authorize the installation of auxiliary signs and signals at a crossing. Such devices shall be installed so as not to obscure other crossing signs or signals at the crossing. Auxiliary devices are not necessarily limited to those described below:

(a) "EXEMPT" sign is a R15-3 sign as set forth in Section 8B.04 of the MUTCD.

(b) Advance Exempt Sign is a W10-1a sign as set forth in Section 8B.04 of the MUTCD.

(c) Part-time Turn Restriction Signals are as set forth in Section 8B.05 of the MUTCD.

(d) "DO NOT STOP ON TRACKS" sign is an R8-8 sign as set forth in section 8B.06 of the MUTCD.

(e) NO TURN ON RED signs are signs R10-11a or R10-11b or R10-11c as set forth in Section 2B.40 of the MUTCD.

(f) STOP HERE ON RED sign is sign R10-6 as set forth in Section 2B.40 of the MUTCD.

(5) Advance Warning Devices:

(a) Advance Warning Signs are W10 series signs as set forth in Section 8B.03 of the MUTCD.

(b) A Multi-use path Highway-Rail Grade Crossing Advance Warning Sign is a W10-1 sign, 18 inches in diameter, as set forth in Section 8B.03 of the MUTCD.

(c) "STOP AHEAD" sign is a W3-1 or W3-1a sign as set forth in Section 2C.26 of the MUTCD.

(d) Advance Warning Pavement Markings are as set forth in Section 8B.16 of the MUTCD.

(e) Train-Activated Advance Warning Device (Figure 6) is a signal that shall alternately flash two yellow lights along the highway in advance of a crossing, so as to provide warning of an approaching train.

(6) Guardrail is as depicted on Oregon Standard Drawing No. ERD445.

(7) Curb is a standard curb as depicted in Oregon Standard Drawing No. ERD700.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 4-8-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0060; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0040

Location of Protective Devices

(1) Standard Nos. 1, 1S, 2, 2B, and 4 shall be located as set forth in Part 8 of the MUTCD.

(2) Standard No. 2P shall be located at the side of the multi-use path in advance of the grade crossing and to the right of approaching pedestrians or bicyclists.

(3) Standard No. 1T (Figure 2) shall be located adjacent to the track on which the stopping requirement applies. The sign shall be located not closer than six feet nor further than 25 feet from the nearest edge of the roadway.

(4) The stop clearance line described in OAR 741-110-0030(2)(e) shall be located perpendicular to the roadway centerline and not less than twelve feet from the nearest rail. Where automatic gates are installed, the line shall be located one foot in advance of where the gate arm crosses the roadway surface.

(5) Advance warning signs and advance warning pavement markings shall be located, where practical, at the safe stopping distance as defined in OAR 741-100-0020(19) and depicted in Figure 5, but generally not less than 100 feet from the nearest track. Advance warning pavement markings shall be located, where practical, so that the transverse line nearest to the railroad-highway intersection is approximately adjacent to the advance warning sign, as depicted in Figure 5.

(6) "STOP AHEAD" signs and train-activated advance warning signals shall be located not less than 100 feet in advance of the advance warning sign. See Figures 5 and 6.

(7) Guardrails shall be located so that the face of the guardrail, at a point perpendicular to the roadway centerline, shall coincide with the outside edge of the roadway. No part of the guardrail shall be closer than ten feet from the centerline of the nearest track. Rural-type guardrail shall be used at crossings where the speed of vehicles on the approaches to the crossing exceeds 35 miles per hour. Urban guardrail may be used on roadways where vehicle speed is 35 miles per hour or less.

(8) Curb shall be located on the outside edge of the roadway. Active protective devices shall be located not closer than 4 feet 3 inches nor more than 5 feet behind face of curb. See Figure 7. Curb shall commence not less than 10 feet from centerline of nearest track and must extend 50 feet in advance of the automatic protective device. Curb may be used at crossings on roadways in urban settings where the speed of vehicles on the roadway approaches to the crossing does not exceed 35 miles per hour. Refer also to OAR 741-110-0090.

(9) Location of Illumination Devices. The system of luminaires shall be located at the grade crossing, as determined by field conditions, to light the side of the train during hours of darkness. See Figure 8.

(10) Location of Auxiliary Devices:

(a) When authorized in writing by the Department, the "EXEMPT" sign shall be located as set forth in Section 8B.04 of the MUTCD.

(b) When authorized in writing by the Department, the advance "EXEMPT" sign shall be located as set forth in Section 8B.04 of the MUTCD.

(c) The "DO NOT STOP ON TRACKS" sign shall be located as set forth in Section 8B.06 of the MUTCD.

(d) The NO TURN ON RED sign shall be located as set forth in Section 2B.40 of the MUTCD.

(e) The STOP HERE ON RED sign shall be located as set forth in Section 2B.40 of the MUTCD.

(11) Overhead Mounting of Signs and Signals. At the option of the public authority, or by Order of the Department, authorized signs and signals may be installed directly over a lane of traffic on the roadway.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0070; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0050

Authority Required for Installation, Removal or Change of Protective Devices/Exceptions

No protective device shall be installed, removed or substituted for any other device, without prior authorization by Order of the Department, except:

(1) Standard Nos. 1 and 1M may be installed by the railroad.

(2) Wigwag signals may be replaced with two Standard No. 2 flashing light signals, upon written notice by the railroad.

(3) Additional flashing light units may be installed on existing installations of Standard Nos. 2 and 2B by the railroad.

(4) Worn out or destroyed protective devices may be replaced by a similar standard device; however, the replacement shall comply with the rules and regulations of the Department in effect at the time of replacement.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0075; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0060

Required Installation of Specified Protective Devices

Unless otherwise ordered by the Department, the following protective devices shall be installed at the grade crossings described below.

(1) Standard No. 1. Two crossbucks shall be installed at each grade crossing not equipped with standard active protective devices.

(2) Standard No. 1T. One railroad STOP sign shall be installed, where physical circumstances permit, on each track approach to each crossing

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equipped with Standard Nos. 2, 2B or wigwag devices when the minimum signal activation requirement of OAR 741-110-0070(1) cannot be met.

(3) Standard No. 1M. Two multiple track signs shall be installed at each grade crossing consisting of two or more tracks.

(4) Stop Clearance Lines. One stop clearance line shall be installed on each paved roadway approach lane at each grade crossing.

(5) Advance Warning Signs. Two advance warning signs shall be installed in advance of each grade crossing. See OAR 741-110-0030(5) and 741-110-0040(5).

(6) Advance Warning Pavement Markings. Advance warning pavement markings shall be installed on each paved vehicle approach lane to each grade crossing.

(7) Guardrail or Curb. Guardrail or curb, as appropriate, shall be installed at each crossing equipped with active protective devices.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0080; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0070

Operation of Active Devices

(1) Activation of Devices. Unless otherwise ordered by the Department, Standard Nos. 2, 2B, 2P, and 4 protective devices and wigwag devices shall be activated by approaching trains through control circuitry in such a manner as will provide a warning through continuous signal operation for a period of not less than 20 seconds nor more than 40 seconds before the arrival of a train traveling at the highest speed permissible over that particular track. Prolonged signal operation shall be avoided by reasonable operating and engineering practices.

(2) Cessation of Operation. The warning aspect of Standard Nos. 2, 2B, 2P and 4 protective devices and wigwag devices shall cease operation immediately after the passage of the train over the roadway unless approach circuits on adjacent tracks are occupied by an oncoming train.

(3) Advance Preemption (railroad detection) or other appropriate methods shall be used to provide a pedestrian clear-out interval (PCOI) before the vehicle clear-out interval (VCOI).

(a) When a VCOI is required, the indication for the track clearance phases shall be green.

(b) The road authority may submit an engineering study to the State Traffic Engineer to request a deviation from the standards. The State Traffic Engineer, together with the ODOT Rail Division Crossing Safety Section Manager, may authorize a signalized intersection operation consistent with the findings of the study.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0090; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-110-0090

Maintenance and Replacement of Protective Devices

Protective devices installed at grade crossings shall be maintained in satisfactory condition, location and in proper alignment. Signs shall be legible at all times. Signal lenses shall be visible as required in OAR 741-110-0030(3)(e). After notification of damage, destruction, failure or malfunction of a protective device, the party responsible for its maintenance shall promptly replace or repair the device, and adequately protest the crossing in the interim.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.204 & ORS 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0105; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0010

Definitions

(1) Signal Maintenance Units (SMU) are defined in the **American Railway Engineering and Maintenance of Way Association Communication and Signals Manual (2000 Edition)**.

(2) "Active Protective Devices" mean any devices described in OAR 741-110-0030(3) or vehicle traffic signals.

(3) "Eligible Railroad" means a railroad as defined in ORS 824.020, which bears the costs of maintaining one or more active protective devices at railroad-highway crossings and which is entitled, under ORS 824.018, to partial reimbursement for those costs. Public transit districts are not eligible for such reimbursement.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92 (Order No. 92-790); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0107; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0020

Procedure for Allocation of Monies

(1) Apportionment Factors to allocate funds from the Grade Crossing Protection Account to defray the costs of maintaining active protective devices at railroad-highway grade crossings, pursuant to ORS 824.018, shall be apportioned based on SMU units. The calculation for reimbursement to each eligible railroad shall be apportioned based upon total SMU units maintained by the railroad divided by the total SMU units reported for all railroads that maintain active protective devices at railroad-highway grade crossings in the state.

(2) Reimbursement Procedure. On or before January 31 of each year, the Department shall determine the unit counts, as defined in section (1) of this rule, at railroad-highway grade crossings equipped with active protective devices. The Department shall, based on those units, apportion funds from the Grade Crossing Protection Account to partially reimburse eligible railroads for expenses incurred in the preceding year to maintain the devices at those crossings. The amount distributed shall equal \$100,000.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.018

Hist.: PUC 10-1992, f. & cert. ef. 6-8-92 (Order No. 92-790); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0108; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0030

Responsibility for Installation and Maintenance of Protective Devices

Unless otherwise ordered by the Department, or unless the parties agree otherwise, the party responsible for the installation and maintenance of protective devices at a grade crossing is as set forth in **Table 3**. At grade crossings with interconnected vehicle traffic signals, the responsibilities are shared between the railroad and the public authority. The railroad shall install and maintain the circuitry located on the track and its connection to the outside of the railroad signal case. The railroad shall provide appropriate electrical contacts to the public authority. The railroad shall install and maintain "DO NOT STOP ON TRACKS" signs on Standard No. 2B devices pursuant to OAR 741-110-0040(11). The public authority shall install and maintain all other signs, signals and circuitry connected to the outside of the railroad signal case to assure proper operation of the subject device.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.200 & ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0114; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0040

Special Requirements for Traffic Signal Interconnection

(1) Each public authority with responsibility for maintaining a vehicle traffic signal system interconnected with active protective devices at an adjacent grade crossing shall:

(a) Install the notice, provided by the Department, in the traffic signal cabinet.

(b) Install a "DO NOT STOP ON TRACKS" sign (see **Figure 4**) capable of holding three flags.

(c) When the railroad preemption feature fails and cannot be repaired within 30 minutes, install flags on the "DO NOT STOP ON TRACKS" signs (see **Figure 4**) and/or provide manual flag protection alerting motorists of the potential hazard.

(d) Remove the flags required in subsection (c) of this section upon completion of repairs to the railroad preemption feature.

(2) Upon notification of failure of the railroad preemption feature at a crossing equipped with an interconnected vehicle traffic signal system, the railroad shall immediately issue appropriate instructions to all train and switch crews operating over the crossing to be alert for trapped vehicles when approaching the crossing.

(3) The appropriate public authority will provide the Department with a report within 15 days of any signal interconnection malfunction reported to the railroad dispatcher.

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

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0116; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0050

Experimental Devices

The Department anticipates new active or passive devices may become available as technology advances. Such devices should be field tested on a limited basis and evaluated statistically to determine their effective-

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tiveness. As such devices may be of mutual interest and responsibility, such tests may be made jointly by the Department or railroad or the public authority in interest.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.202
Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0117; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0060

Stop Signs at Private Crossings

(1) Unless otherwise ordered by the Department under ORS 824.224, the railroad shall cause to be installed one vehicle stop sign (24-inch minimum) on each side of any private or farm crossing at grade that is not equipped with automatic protective devices.

(2) The railroad shall also cause to be installed an auxiliary sign identifying the crossing as a private crossing by stating the words "PRIVATE CROSSING" in letters at least two inches high. The color of the sign shall be black letters on a white background (see **Figure 9**). Optional information such as the words "NO TRESPASSING;" the name of the railroad from which permission must be secured for use of the crossing and permit number may be included on the auxiliary sign.

[ED. NOTE: Figures referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.224
Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0120; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0070

Bicycle Lane and Multi-use Path Construction

(1) Bicycle facilities shall intersect railroad tracks as close to 90 degrees as possible.

(2) Multi-use paths or bicycle lanes that have angles of intersection with railroad tracks of 60 to 74 degrees shall have an appropriate sign (see **Figure 10**) posted on each approach to the crossing.

(3) Multi-use paths or bicycle lanes that have angles of intersection with railroad tracks of 59 degrees or less shall require an engineering study.

[ED. NOTE: Figures referenced are available from the agency.]
Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.212
Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-115-0080

Vegetation Control at Grade Crossings

(1) The railroad shall control vegetation on its right-of-way for a distance of 250 feet in each direction from the edge of the crossing surface and for a distance of 50 feet in each direction from the centerline of the nearest track or to the edge of the railroad's right-of-way, whichever is less, so that the vegetation does not obstruct motorists' view of approaching trains.

(2) The public authority shall control vegetation on its right-of-way within the SSD and within its right-of-way.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.212
Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0010

Responsibility for Maintenance of Grade Crossings

(1) Unless otherwise ordered by the Department, or unless the parties agree otherwise, the railroad is responsible for maintaining that portion of the crossing lying between lines drawn perpendicular to the end of ties of each track at the crossing.

(2) The public authority is responsible for maintaining the remaining portion of the highway at the crossing.

(3) Additional construction and maintenance costs necessary to comply with OAR 741-120-0020 resulting from a change in elevation of the railroad tracks or a change in elevation of the roadway at the crossing shall be borne by the party initiating the change.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.212
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0210; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0020

Grade Crossing Construction and Maintenance

(1) At all new or altered grade crossings used by motor vehicles, bicycles, or pedestrians, the roadway or multi-use path shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) The width of the crossing surface, including sidewalks, at the crossing shall be not less than the width of the roadway approaches to the crossing.

(3) Unless authorized in writing by the Department, the surface of the roadway shall be in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor three inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

(4) The surface of each grade crossing shall conform to the plane of the top of the rails and be constructed and maintained in a reasonably smooth condition.

(5) The railroad shall notify the public authority at least two weeks in advance of the date it intends to raise or lower the elevation of one or more tracks at the crossing.

(6) The public authority shall notify the railroad at least two weeks in advance of the date it intends to raise or lower the elevation of its roadway on the roadway approach to the crossing.

(7) Upon notification by the Department of a condition that does not conform to the requirements of sections (1) through (5) of this rule, the railroad or the public authority, within 30 days of such notification, unless any party requests a hearing, shall bring its portion of the crossing surface into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. See OAR 741-120-0010.

(8) The construction of new driveways within 100 feet of any railroad track at existing grade crossings requires an application under ORS 824.206, except for railroad right-of-way roads.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.212
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0215; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0025

Sidewalk Construction and Maintenance

(1) All new or altered sidewalks at grade crossings shall be constructed to meet minimum standards, but shall be not less than five feet in width.

(2) The surface of a sidewalk shall conform to the plane of the top of the rails, and be constructed and maintained in a reasonably smooth condition.

(3) At crossings equipped with automatic protective devices, sidewalks shall be directed behind the devices at a distance of not less than five feet, as measured from the centerline of the signal mast to the nearest edge of the sidewalk.

(4) Upon written notification by the Department of a condition that does not conform to the requirements of sections (2) through (3) of this rule, the railroad or public authority shall bring its portion of the sidewalk at a grade crossing into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. The work shall be commenced within 30 days of such notification, unless any party requests a hearing.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.212
Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0030

Separated Crossing Construction and Maintenance

(1) All new or altered separated crossing structures shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) Separated crossing structures, including the roadway surface, shall be maintained in good and safe condition.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.210 & ORS 824.212
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;
Renumbered from 860-042-0225; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0040

Authority for Closure of Crossings and Removal of Tracks at Crossings

(1) Permanent Closure of Roadway at Crossings. Whenever a crossing is permanently closed to motor vehicle, bicycle or pedestrian traffic, the public authority at the crossing shall notify the Department of the closure and comply with OAR 741-120-0050. After such closure has been accomplished, the roadway cannot be reopened without the authority of the Department pursuant to ORS 824.204 or 824.210.

(2) Temporary Closure of Roadway at Crossings by the Railroad. When a railroad desires to close a railroad-highway crossing temporarily, it shall comply with all reasonable procedures required by the public authority. At a minimum, the railroad shall provide to the public authority at least 40 hours advance notification of intent to close the crossing. See Section 8A.05 of the MUTCD.

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(3) Discontinuance of Railroad Operations at Crossings. Whenever railroad use of a crossing is to be discontinued in accordance with federal requirements, the owner of the track at the crossing and the railroad operating over such track shall notify the Department of the discontinuance.

(4) Removal of Trackage at Crossings. Whenever one or more tracks is to be removed at a grade crossing, the railroad operating over such track-age shall file an application to alter the crossing under ORS 824.206.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.206
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0235; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-120-0050

Permanent Closure and Removal of Grade Crossings

(1) Construction of Barricades. Whenever a grade crossing is closed to use by motor vehicles, a barricade or other appropriate obstruction sufficient to prevent use of the crossing by motor vehicles shall be installed and maintained in good condition on each roadway approach to the crossing. Barricade width shall be a minimum of the width of the roadway and shoulders. Barricades shall be installed and maintained by the public authority. The cost of construction shall be borne by the railroad; maintenance cost shall be borne by the public authority.

(2) Removal of Crossing Surface. Whenever a grade crossing is closed to use by motor vehicles, the railroad, after installation of required barricades, shall promptly remove all roadway surface material from the area between lines drawn perpendicular to the end of ties of each track at the crossing.

(3) Removal of Railroad Tracks. Whenever a grade crossing, or one or more tracks is closed to use by railroad equipment, the tracks (including rails and ties) shall be removed and the roadway surface restored by the railroad within twelve months from the time the track is closed to use by railroad equipment.

(4) Removal of Protective Devices. Whenever a grade crossing is closed to use by motor vehicles or by railroad equipment, protective devices shall be promptly removed by the party responsible for their maintenance.

Stat. Auth.: Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.206
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0240; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-125-0010

Blockage of Public Grade Crossings

(1) As used in this rule, "blockage" of a public railroad-highway grade crossing is where a vehicle, pedestrian or bicyclist is at the crossing waiting to cross and is unable to do so by actions or situations under the control of the railroad, and:

(a) Is a period of time in excess of 10 continuous minutes between the hours of 6 a.m. and 10 p.m.; or

(b) Is a period of time in excess of 15 continuous minutes between the hours of 10 p.m. and 6 a.m.

(2) Calculation of blockage time shall:

(a) Begin when the first highway user arrives at the crossing and is unable to move over the track; and

(b) End when highway users queued at the crossing can again use the crossing.

(3) Except as provided in section (4) of this rule, a crossing shall not be blocked.

(4) These rules do not apply to:

(a) A continuously moving train in the same direction;

(b) A blockage caused by a wreck, derailment, act of nature, or other emergency condition not under the control of the railroad; or

(c) Emergency or other operational procedures required by federal law.

(5) Blockage complaints will be brought against the railroad whose crew is operating the train, unless the parties agree otherwise.

(6) The Department, after hearing, unless not required by ORS 824.214, may grant variances at a specific crossing from the limitations set forth in this rule, upon proper application by the railroad or public authority in interest.

(7) The railroad shall coordinate road closures and reopenings with the public authority during blockages.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.222
Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0310; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-125-0030

Railroad Equipment Set Back from Railroad-Highway Grade Crossings

(1) Except as provided in section (2) or (3) of this rule, no railroad shall cause any rail cars, locomotives or other railroad equipment to be stopped, stored or left standing within 250 feet of a public railroad-highway grade crossing where there is an adjacent track.

(2) The set back limitation set forth in section (1) of this rule does not apply when:

(a) The crossing is equipped with active warning devices;

(b) The train is stopped by an emergency condition not under the control of the railroad; or

(c) A railroad employee is physically at the crossing and providing flagging protection for the crossing.

(3) The Department, after hearing, unless not required by ORS 824.214, may grant a reasonable and necessary variance from the limitation set forth in section (1) of this rule upon proper application by a person, railroad or public authority in interest.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.223
Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0020

Applications Required

Except where formal proceedings are initiated by the Department and except as provided in OAR 741-110-0050 and 741-120-0040, an application for authority must be filed with the Department to:

(1) Construct, relocate or alter a sidewalk, multi-use path or roadway across one or more railroad tracks at grade;

(2) Construct or relocate one or more railroad tracks across a sidewalk, multi-use path or roadway at grade; or

(3) Construct, relocate or alter a separated crossing of a sidewalk, multi-use path or roadway.

NOTE: See definition of "alter" in OAR 741-100-0020(1).
Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.204, ORS 824.206 & ORS 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0011; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0030

Persons Who May Make Application

Pursuant to ORS Chapter 824, only a railroad company or the public authority in interest may file an application for authority to construct, relocate, alter or close a crossing.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0025; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0040

Form of Applications

(1) Applications shall be filed on forms approved by the Department.

(2) An original and sufficient complete copies of the application and attachments to serve all parties must be filed with the Rail Division of the Department.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220
Stats. Implemented: ORS 824.204, ORS 824.206, ORS 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0040; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0050

Information to Accompany Application

Unless exceptions have been authorized pursuant to OAR 741-200-0060, each application shall be accompanied by an engineered plan (drawing). The plan shall include:

(1) A vicinity map, drawn to scale, showing in detail the vicinity of the crossing, project site and surrounding area road grid. The map shall show:

(a) The angle of intersection of the centerlines of railroad and roadway. In cases where such intersection is on a curved section of roadway or railroad, the angle of intersection shall be the angle formed by a tangent to the curve or curves at the point of intersection;

(b) The right-of-way lines of the roadway and the railroad;

(c) The location of all public and private crossings within the limits of the map;

(d) The location of all structures or other obstructions to vision that are between approaching vehicles and trains;

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(e) The location of all signs and signals that govern the flow of rail or roadway traffic within the safe stopping distance and the location of all railroad signs and signals within the grade crossing approach circuit; and

(f) Maximum distance of unobstructed view along the tracks, indicated by sight lines drawn from:

(A) Points on the roadway 18 feet on each side of the centerline of the nearest track; and

(B) Points on the roadway at the distance from the centerline of the nearest track in accordance with the table of safe stopping distances.

(2) Drawings for Active Protective Devices. When active protective devices are to be installed or altered, a drawing (scale of 1 inch = 20 feet is recommended) shall be provided showing the location of proposed signal foundations in relation to distances from centerlines of highway and nearest railroad track. This drawing shall also show the proposed position of other related structures and devices such as guardrails, shoulders of roadway, curbs of roadway and part-time turn restriction signals.

(3) Vehicle Traffic Signal Plan (if applicable) with Operation Matrix.

(4) Roadway Profile. A profile showing to scale the grade of the roadway within the safe stopping distance on each side of the crossing.

(5) Railroad Profile. A profile showing the track profile within 250 feet of the crossing.

(6) Drawings for Separated Crossings. All applications to construct or alter separated structures shall include drawings showing the vertical and horizontal clearances above and adjacent to the railroad tracks that will exist upon completion. Such clearances shall not be less than those prescribed in OAR 741-305-0010 through 741-305-0020 and 741-310-0010 through 741-310-0050.

(7) Drawings for Undercrossings. All applications to construct or alter undercrossings shall include drawings showing the clearances beneath the structure that will be provided for roadway use.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.204, ORS 824.206, ORS 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0045; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0060

Application Alternative

Upon approval of Rail Division staff, certain requirements of OAR 741-200-0050 may be waived.

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0046; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

741-200-0090

Expiration of Authority to Construct Crossings

Authority to construct a crossing expires two years from the effective date of the Order granting such authority unless the authorized construction is substantially in progress within that period or within such additional period as may have been provided by Order of the Department

Stat. Auth.: ORS 184.616, ORS 184.619, ORS 823.011, ORS 824.202, ORS 824.220

Stats. Implemented: ORS 824.204

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 5-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0065; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03

Department of Veterans' Affairs Chapter 274

Adm. Order No.: DVA 10-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 9-1-03

Rules Amended: 274-020-0341

Rules Repealed: 274-020-0341(T)

Subject: This rule replaces and supersedes the Temporary Rule 274-020-0341(T) filed on August 14, 2003, and effective August 15, 2003 through October 17, 2003.

Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after August 15, 2003, shall have the interest rate of 5.75 percent with an origination fee of 1.0 percent or 5.625 percent with an origination fee of 1.5 percent.

Rules Coordinator: Charles E. Gehley—(503) 373-2142

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(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.

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(6) As provided by ORS 407.327, the interest rate on loans for which applications were received from April 15, 1994, through June 21, 1994, shall be fixed and shall be 6.6 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(7) As provided by ORS 407.327, the interest rate on loans for which applications were received on or after:

(a) June 22, 1994, shall be fixed and shall be 7.0 percent on loans that have a maturity date of at least 15 years, and 7.4 percent on loans with a maturity date in excess of 15 years.

(b) September 20, 1994, through November 17, 1994, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.7 percent on loans with a maturity date in excess of 15 years. (Temporary Rule)

(c) November 18, 1994, shall be fixed and shall be 7.9 percent on loans that have a maturity date of at least 15 years, and 8.1 percent on loans with a maturity date in excess of 15 years.

(d) May 11, 1995, shall be fixed and shall be 7.4 percent on loans that have a maturity date of at least 15 years, and 7.6 percent on loans with a maturity date in excess of 15 years. (Temporary)

(e) May 18, 1995, shall be fixed and shall be 7.1 percent on loans that have a maturity date of at least 15 years, and 7.3 percent on loans with a maturity date in excess of 15 years. (Temporary)

(f) June 26, 1995, shall be fixed and shall be 6.80 percent on loans that have a maturity date of at least 15 years, and 7.0 percent on loans with a maturity date in excess of 15 years.

(g) November 1, 1995, shall be fixed and shall be 6.30 percent on loans that have a maturity date of not less than 15 years or more than 30 years.

(h) February 7, 1997, shall be fixed and shall be 6.60 percent on all loans that have a maturity date of no more than 30 years.

(i) February 2, 1998, shall be fixed and shall be 6.30 percent on all loans that have a maturity date of no more than 30 years.

(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

- (A) 5.95 percent with an origination fee of 1.0 percent;
- (B) 5.79 percent with an origination fee of 1.5 percent; or
- (C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
 - (i) 5.55 percent with an origination fee of 1.0 percent;
 - (ii) 5.39 percent with an origination fee of 1.5 percent; or
 - (iii) 5.25 percent with an origination fee of 2.0 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

- (i) 5.95 percent with an origination fee of 1.0 percent;
- (ii) 5.79 percent with an origination fee of 1.5 percent; or
- (iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) ODVA's Veterans' Loan Program 1990 loans:

- (i) 5.25 percent with an origination fee of 1.0 percent; or
- (ii) 4.99 percent with an origination fee of 1.5 percent.

(B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:

- (i) 5.25 percent with an origination fee of 1.0 percent; or
- (ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(v) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.375 percent with an origination fee of 1.0 percent; or

(B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)

(w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.50 percent with an origination fee of 1.0 percent; or

(B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

(A) 5.75 percent with an origination fee of 1.0 percent; or

(B) 5.625 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

(a) November 12, 1997, shall be fixed and shall be 7.95 percent.

(b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92, DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. ef. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA 1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03

Adm. Order No.: DVA 11-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 9-1-03

Rules Amended: 274-020-0340, 274-020-0445, 274-028-0020, 274-045-0060, 274-045-0441

Rules Repealed: 274-020-0340(T), 274-020-0445(T), 274-028-0020(T), 274-045-0060(T), 274-045-0441(T)

Subject: This rule replaces and supersedes the Temporary Rule filed on April 7, 2003, which was effective upon filing through October 3, 2003.

Senate Bill 193, of the 2003 Regular Session of Legislature increased the maximum allowable veterans' home loan amount from 95 percent to 97 percent of the net appraised value.

In addition to the maximum loan amount change, these rules are also being amended for housekeeping purposes. The words "net appraised value" are being inserted immediately after "loan value"

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in subsection (1) of OAR 274-020-0340 and 274-045-0060 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; DVA 11-2003, f. & cert. ef. 9-23-03

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; DVA 11-2003, f. & cert. ef. 9-23-03

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; DVA 11-2003, f. & cert. ef. 9-23-03

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;

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(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; DVA 11-2003, f. & cert. ef. 9-23-03

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's 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; DVA 11-2003, f. & cert. ef. 9-23-03

Adm. Order No.: DVA 12-2003(Temp)

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03 thru 2-17-04

Notice Publication Date:

Rules Amended: 274-040-0030

Rules Suspended: 274-040-0030(T)

Subject: This rule amends and supersedes the Temporary Rule filed on August 21, 2003.

The maximum monthly amount of assistance payable from the Covered Care Program account for the care received by any Oregon Veterans' Home (OVH) resident is being increased from \$500 to \$1,150.

Rules Coordinator: Charles E. Gehley—(503) 373-2142

274-040-0030

Covered Care

(1) It is the expressed policy of the Director of Veterans' Affairs (Director) to make the Oregon Veterans' Home (OVH) financially available to current or potential OVH resident by means of the Director's Covered Care Program described more fully below.

(2) Within the fund established by the Director pursuant to ORS 406.050, an account is designated for donations to be used by the Director consistent with this Covered Care Program. Funds held within this account will be used by the Director exclusively for the purpose of assisting OVH residents who, as determined by the Director, do not have sufficient income, including assets, to meet the financial requirements necessary for the cost of OVH care.

(3) When determining to whom Covered Care Program assistance will be made available, the Director may take into consideration various factors, including but not limited to:

(a) The amount of funds in the Covered Care Program account available for this purpose;

(b) The anticipated future deposits into the Covered Care Program account;

(c) The amount of any present commitments from the Covered Care Program account;

(d) All available sources of revenue or income to a particular resident, including but not limited to US Department of Veterans Affairs (USDVA) payments, Social Security benefits, other pensions, annuities, savings and investments;

(e) The amount of funds available to a particular or potential resident from members of his/her family, or others who are willing to provide financial assistance and agree to be legally obligated to meet such financial obligations of the resident;

(f) Whether or not the available Covered Care Program assistance will satisfy the entire gap in necessary funding for OVH care on behalf of the resident or potential resident;

(g) Whether or not the intended beneficiary of the Covered Care Program assistance is a current OVH resident.

(4) The maximum monthly amount of assistance payable from the Covered Care Program account for the care received by any OVH resident shall be \$1,150.

(5) The payment of Covered Care Program assistance on behalf of any OVH resident is subject to the sole discretion of the Director. The Director may refuse, terminate, or suspend Covered Care Program assistance to any OVH resident at any time without notice. The Director shall be

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under no obligation to provide Covered Care Program assistance to any OVH resident or to solicit funds to meet the financial needs of the OVH resident, his/her family, or others.

(6) When determining to terminate or suspend Covered Care Program assistance to any current recipient, the Director may take into consideration various factors, including but not limited to:

(a) Any reported change in the financial status of the recipient or other OVH care payment provider;

(b) Any misrepresentation or omission of material facts in the application for the Covered Care Program assistance or otherwise;

(c) The behavior of the recipient while in the OVH;

(d) The feasibility of appropriate care for the recipient at the OVH;

(e) The availability of funds in the Covered Care Program account.

(7) If all of the funding of an OVH resident, or potential resident, cannot be met with allowable assistance from the Covered Care Program, no amounts will be committed by the Director or paid from the Covered Care Program account.

(8) Applications for assistance from the Covered Care Program account shall be made in such manner and detail, and on such forms, as the Director, in his sole discretion, shall determine.

(9) Applications generally will be prioritized for consideration based on the date of completed receipt by the Director. The Director may, however, consider applications in such other order and at such other times as by him is deemed reasonable.

Stat. Auth.: ORS 406.050, ORS 408.360, ORS 408.365 & ORS 408.368

Stats. Implemented: ORS 408.365 & ORS 408.368

Hist.: DVA 4-2002(Temp), f. & cert. ef. 4-5-02 thru 10-2-02; DVA 7-2002, f. & cert. ef. 9-24-02; DVA 10-2002(Temp), f. 12-27-02, cert. ef. 1-1-03 thru 6-27-03; DVA 9-2003(Temp), f. & cert. ef. 8-21-03 thru 2-17-03; DVA 12-2003(Temp), f. & cert. ef. 10-1-03 thru 2-17-04

Adm. Order No.: DVA 13-2003(Temp)

Filed with Sec. of State: 10-8-2003

Certified to be Effective: 10-8-03 thru 4-5-04

Notice Publication Date:

Rules Amended: 274-020-0341

Subject: Applications on all ODVA's Veterans' Home Loan Program loans that have a maturity date of no more than 30 years and received on or after October 8, 2004, shall have the interest rate of 5.5 percent with an origination fee of 1.0 percent or 5.375 percent with an origination fee of 1.5 percent.

Rules Coordinator: Charles E. Gehley—(503) 373-2142

274-020-0341

Interest

(1) Prior to May 27, 1971, fixed interest rates on loans to eligible veterans are as follows:

(a) Four percent on all loans through August 21, 1969;

(b) Effective August 22, 1969, four percent on the first \$18,500 of a home loan balance, and four percent on the first \$50,000 of a farm loan balance;

(c) For loans made from August 22, 1969 through May 26, 1971, the interest rate on the loan amount in excess of \$18,500 for home loans and \$50,000 for farm loans is as follows:

(A) Effective August 22, 1969, 5.2 percent;

(B) Effective September 4, 1969, 6.9 percent;

(C) Effective December 10, 1969, 7.1 percent;

(D) Effective April 8, 1970, 6.8 percent;

(E) Effective August 19, 1970, 6.4 percent;

(F) Effective January 6, 1971, 5.4 percent.

(2) As provided by ORS 407.325, the interest rate on variable rate real property loans are as follows:

(a) Effective May 27, 1971, 5.9 percent on all loans;

(b) Effective April 1, 1981, 7.2 percent on loans for which applications were received after December 31, 1980;

(c) Effective April 1, 1981, 6.2 percent on loans in effect or for which applications were received on or before December 31, 1980;

(d) Effective November 1, 1981, 7.5 percent on loans for which applications were received after December 31, 1980, and before August 24, 1981. The loan payment for principal and interest on the loans affected will be adjusted on February 1, 1982;

(e) Effective December 22, 1981, 11 percent on loans for which applications were received on or after August 24, 1981;

(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.

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(j) August 1, 1998, shall be fixed and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(k) September 22, 1999, shall be fixed, and shall be 5.95 percent with an origination fee of 2.00 percent, or 6.00 percent, with an origination fee 1.75 percent, on loans that have a maturity date of no more than 30 years.

(l) December 16, 1999, shall be fixed, and shall be 6.85 percent with an origination fee of 2.00 percent, or 6.90 percent, with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(m) March 31, 2000, shall be fixed, and shall be 6.50 percent with an origination fee of 2.00 percent, or 6.55 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(n) June 12, 2000, shall be fixed, and shall be 7.15 percent with an origination fee of 2.00 percent, or 7.20 percent with an origination fee of 1.75 percent, on all loans that have maturity date of no more than 30 years. (Temporary)

(o) July 17, 2000, shall be fixed, and shall be 6.90 percent with an origination fee of 2.00 percent, or 6.95 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years. (Temporary)

(p) September 11, 2000, shall be fixed, and shall be 6.25 percent with an origination fee of 2.00 percent, or 6.30 percent with an origination fee of 1.75 percent, on all loans that have a maturity date of no more than 30 years.

(q) September 10, 2001, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(r) April 1, 2002, shall be fixed, and shall be 6.15 percent on all loans that have a maturity date of no more than 30 years. (Temporary)

(s) June 27, 2002, shall be fixed, and shall be 5.95 percent on all loans that have a maturity date of no more than 30 years.

(t) September 26, 2002, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be:

- (A) 5.95 percent with an origination fee of 1.0 percent;
- (B) 5.79 percent with an origination fee of 1.5 percent; or
- (C) 5.65 percent with an origination fee of 2.0 percent. (Temporary)

(u) January 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans.
 - (i) 5.55 percent with an origination fee of 1.0 percent;
 - (ii) 5.39 percent with an origination fee of 1.5 percent; or
 - (iii) 5.25 percent with an origination fee of 2.0 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans.
 - (i) 5.95 percent with an origination fee of 1.0 percent;
 - (ii) 5.79 percent with an origination fee of 1.5 percent; or
 - (iii) 5.65 percent with an origination fee of 2.0 percent.

(v) April 21, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) ODVA's Veterans' Loan Program 1990 loans:
 - (i) 5.25 percent with an origination fee of 1.0 percent; or
 - (ii) 4.99 percent with an origination fee of 1.5 percent.
- (B) ODVA's Post Vietnam Era Veterans' Home Loan Program loans:
 - (i) 5.25 percent with an origination fee of 1.0 percent; or
 - (ii) 5.125 percent with an origination fee of 1.5 percent. (Temporary)

(w) July 25, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.375 percent with an origination fee of 1.0 percent; or
 - (B) 5.25 percent with an origination fee of 1.5 percent. (Temporary)
- (w) August 1, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:
- (A) 5.50 percent with an origination fee of 1.0 percent; or
 - (B) 5.375 percent with an origination fee of 1.5 percent. (Temporary)

(x) August 15, 2003, shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.75 percent with an origination fee of 1.0 percent; or
- (B) 5.625 percent with an origination fee of 1.5 percent.

(y) October 8, 2003 shall be fixed on all loans that have a maturity date of no more than 30 years and shall be as follows:

- (A) 5.5 percent with an origination fee of 1.0 percent; or
- (B) 5.375 percent with an origination fee of 1.5 percent.

(8) As provided by ORS 407.327, the interest rate on home improvement loans for which applications are received on or after:

- (a) November 12, 1997, shall be fixed and shall be 7.95 percent.
- (b) February 2, 1998, shall be fixed and shall be 7.5 percent.

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

Stats. Implemented: 407.325 & ORS 407.327

Hist.: DVA 40, f. 5-27-71, ef. 5-27-71; DVA 45, f. & ef. 12-1-75; DVA 49, f. & ef. 6-1-77; DVA 50, f. 11-16-77, ef. 12-1-77; DVA 2-1978, f. & ef. 12-1-78; DVA 1-1979, f. & ef. 12-5-79; DVA 4-1980, f. & ef. 12-1-80; DVA 6-1980(Temp), f. 12-19-80, ef. 1-1-81; DVA 1-1981, f. 3-1-81, ef. 4-1-81; DVA 2-1981(Temp), f. 3-11-81, ef. 4-1-81; DVA 4-1981, f. & ef. 4-16-81; DVA 5-1981(Temp), f. & ef. 8-10-81; DVA 7-1981, f. 10-30-81, ef. 11-1-81; DVA 8-1981, f. 10-30-81, ef. 12-1-81; DVA 10-1981(Temp), f. & ef. 12-22-81; DVA 3-1982(Temp), f. & ef. 2-3-82; DVA 11-1982, f. 4-23-82, ef. 1-1-83; DVA 15-1982, f. & ef. 6-1-82; DVA 27-1982(Temp), f. & ef. 10-15-82; DVA 5-1983, f. & ef. 2-15-83; DVA 10-1985, f. 8-23-85, ef. 1-1-86; DVA 6-1992(Temp), f. & cert. ef. 4-15-92; DVA 9-1992, f. & cert. ef. 8-3-92, DVA 10-1992(Temp), f. & cert. ef. 8-17-92; DVA 1-1993, f. & cert. ef. 1-4-93; DVA 6-1993(Temp), f. 3-30-93, cert. ef. 4-1-93; DVA 8-1993, f. 7-30-93, cert. ef. 9-27-93; DVA 10-1993(Temp), f. 10-18-93, cert. ef. 11-1-93; DVA 1-1994, f. 1-10-94, cert. ef. 2-1-94; DVA 2-1994(Temp), f. & cert. ef. 4-15-94; DVA 4-1994, f. & cert. ef. 6-22-94; DVA 5-1994(Temp), f. 9-15-94, cert. ef. 9-20-94; DVA 6-1994(Temp), f. 11-15-94, cert. ef. 11-18-94; DVA 2-1995, f. & cert. ef. 3-23-95; DVA 3-1995(Temp), f. & cert. ef. 5-11-95; DVA 4-1995(Temp), f. & cert. ef. 5-18-95; DVA 6-1995(Temp), f. 6-23-95, cert. ef. 6-26-96; DVA 13-1995, f. & cert. ef. 10-23-95; DVA 14-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; DVA 1996, f. & cert. ef. 3-22-96; DVA 1-1997(Temp), f. 2-4-97, cert. ef. 2-7-97; DVA 3-1997, f. & cert. ef. 6-25-97; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 2-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 6-1998, f. & cert. ef. 6-23-98; DVA 8-1998(Temp), f. 7-28-98, cert. ef. 8-1-98 thru 1-27-99; DVA 1-1999, f. & cert. ef. 1-22-99; DVA 2-1999, f. & cert. ef. 9-22-99; DVA 4-1999(Temp), f. 12-14-99, cert. ef. 12-16-99 thru 6-12-00; DVA 2-2000(Temp), f. 3-30-00, f. 3-31-00 thru 6-12-00; DVA 6-2000, f. & cert. ef. 5-23-00; DVA 7-2000(Temp), 6-12-00 thru 12-9-00; DVA 8-2000(Temp), f. 7-14-00, cert. ef. 7-17-00 thru 12-9-00; DVA 9-2000(Temp), f. 9-8-00, cert. ef. 9-11-00 thru 12-9-00; DVA 10-2000, f. 12-5-00, cert. ef. 12-10-00; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 3-2002(Temp), f. 3-29-02, cert. ef. 4-1-02 thru 9-27-02; DVA 5-2002(Temp), f. 6-26-02, cert. ef. 6-27-02 thru 9-27-02; DVA 6-2002, f. & cert. ef. 9-24-02; DVA 8-2002(Temp), f. 9-25-02, cert. ef. 9-26-02 thru 3-24-03; DVA 1-2003(Temp), f. 1-17-03, cert. ef. 1-21-03 thru 3-24-03; DVA 2-2003, f. & cert. ef. 3-24-03; DVA 4-2003(Temp), f. 4-18-03, cert. ef. 4-21-03 thru 10-17-03; DVA 6-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 10-17-03; DVA 7-2003(Temp), f. 7-31-03, cert. ef. 8-1-03 thru 10-17-03; DVA 8-2003(Temp), f. 8-14-03, cert. ef. 8-15-03 thru 10-17-03; DVA 10-2003, f. & cert. ef. 9-23-03; DVA 13-2003(Temp), f. & cert. ef. 10-8-03 thru 4-5-04

***** Employment Department Chapter 471

Adm. Order No.: ED 12-2003

Filed with Sec. of State: 9-19-2003

Certified to be Effective: 9-21-03

Notice Publication Date: 8-1-03

Rules Amended: 471-010-0050

Rules Repealed: 471-010-0050(T)

Subject: This rule is being amended to clarify who can be considered to be a "hosted Worker" for Employment Department purposes.

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 information, 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

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(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 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.

(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.: IDE 150, f. & ef. 2-9-76; IDE 152, f. 9-28-77, ef. 10-4-77; IDE 6-1980, f. & ef. 9-8-80; IDE 2-1984, f. & ef. 9-28-84; IDE 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; ED 12-2003, f. 9-19-03, cert. ef. 9-21-03

Health Licensing Office, Sanitarians Registration Board Chapter 338

Adm. Order No.: SRB 2-2003

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 7-1-03

Rules Amended: 338-010-0030

Subject: Makes permanent the temporary rule that suspended the current rule for a passing test score of 70% to a score that corresponds with the National passing standard, 68%. The new score will

rely on quantifiable national standards that are reviewed and validated by the National Environmental Health Association.

Rules Coordinator: Patricia C. Allbritton—(503) 378-8667, ext. 4322

338-010-0030

Examination

(1) The Board shall conduct examinations at least twice a year. A schedule of examination dates and times shall be available upon request. The Board reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants in advance.

(2) The Board may, if it deems necessary delegate the authority for oral examination of candidates to a sub-committee of its members to be held separately from the Board meeting.

(3) Candidates shall qualify for examination upon compliance with all applicable provisions of OAR 338-010-0015, 338-010-0017 and 338-010-0025. Candidates will not be allowed to sit for the examination if documentation is incomplete or incorrect.

(4) Candidates shall present photographic identification, such as a driver's license, to the examination proctor.

(5) In order to qualify for registration, the candidate shall:

(a) Receive a passing score of at least 68 percent on the written examination;

(b) Complete a minimum of 18 months of the qualified work experience as defined in OAR 338-005-0020(35) and required pursuant to OAR 338-010-0015(2) or (3) prior to eligibility for the oral examination;

(c) Demonstrate to the Board, in an oral examination which establishes the qualifications and ability to practice as a sanitarian or waste water sanitarian, including the ability to perform scientific investigations in response to particular situations.

(6) **EXAMINATION CONDUCT:** Examinations are conducted in a designated area with restricted access. Examination conduct differs between the sanitarian, waste water sanitarian, and oral examinations. Authorization for bringing any written material or electronic equipment or devices is subject to approval of the Board. Taking unauthorized items into the examination area may invalidate the examination and result in forfeiture of the examination and fees.

(7) **EXAMINATION DISQUALIFICATION:** A candidate will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or attempting to give assistance to others in answering questions during the examination;

(b) Receiving or attempting to receive assistance during the examination, including assistance from other individuals, from notes, books or devices to answer questions;

(c) Removing or attempting to remove any secure examination-related information, notes, or materials from the examination site;

(d) Failing to follow directions relative to the conduct of the examination;

(e) Exhibiting behavior which impedes the normal progress of the examination; and

(f) Endangering the health or safety of a person involved in the examination.

(8) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The candidate will be required to reapply, submit additional examination fees, and request in writing to schedule another examination at a date and time determined by the Board. Reexamination may take place following a one year delay from the date of disqualification or at the discretion of the Board.

Stat. Auth.: ORS 700.050, ORS 700.059 & ORS 700.240

Stats. Implemented: ORS 700.050, ORS 700.059 & ORS 700.240

Hist.: SRB 2, f. 4-7-72, ef. 5-1-72; SRB 1-1985, f. & ef. 11-1-85; SRB 1-1993, f. & cert. ef. 3-18-93; SRB 2-1996, f. 5-31-96, cert. ef. 6-1-96; SRB 1-1998, f. 4-29-98, cert. ef. 5-1-98; SRB 1-2003(Temp), f. & cert. ef. 4-25-03 thru 10-17-03; SRB 2-2003, f. 9-24-03, cert. ef. 10-1-03

Land Conservation and Development Department Chapter 660

Adm. Order No.: LCDD 3-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-24-03

Notice Publication Date: 8-1-03

Rules Amended: 660-022-0030

ADMINISTRATIVE RULES

Subject: The amended rule helps secure new “market-ready” industrial sites in accord with Governor Kulongoski’s executive order. The “Industrial Lands” rule will primarily achieve two things: 1) Increase building size limitations on industrial sites in rural communities from 10,000 square feet to 40,000 square feet, and in urban unincorporated communities from 20,000 square feet to 60,000 square feet; and 2) Allow complete redevelopment of abandoned mill sites within unincorporated communities that have been designated and planned by counties throughout Oregon.

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 employed 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) Industrial uses, including accessory uses subordinate to industrial development, as provided under either paragraph (A) or (B) of this subsection:

(A) Industrial uses sited on an abandoned or diminished industrial mill site, as defined in ORS 197.- ____ [Section 3 of HB 2614 amending Or Laws 2003, ch 252, § 2] 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 is zoned for industrial uses; or

(B) Industrial uses authorized under ORS 197.- ____ [Sections 1, 2 and 4, HB 2614 (2003)].

(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 UGB;

(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 subsection (b) of section (4) of this rule, 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 subsection (c) of section (3) of this rule, 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; LCDD 3-2003, f. 9-23-03, cert. ef. 9-24-03

Adm. Order No.: LCDD 4-2003

Filed with Sec. of State: 9-26-2003

Certified to be Effective: 9-26-03

Notice Publication Date: 8-1-03

Rules Amended: 660-022-0030

Subject: The amended rule helps secure new “market-ready” industrial sites in accord with Governor Kulongoski’s executive order. The “Industrial Lands” rule will primarily achieve two things: 1) Increase building size limitations on industrial sites in rural communities from 10,000 square feet to 40,000 square feet, and in urban unincorporated communities from 20,000 square feet to 60,000 square feet; and 2) Allow complete redevelopment of abandoned mill sites within unincorporated communities that have been designated and planned by counties throughout Oregon.

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;

ADMINISTRATIVE RULES

(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 employed 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) Industrial uses, including accessory uses subordinate to industrial development, as provided under either paragraph (A) or (B) of this subsection:

(A) Industrial developments sited on an abandoned or diminished industrial mill site, as defined in ORS 197.- ____ [Section 3 of HB 2614 amending Or Laws 2003, ch 252, § 2] 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 is zoned for industrial uses; or

(B) Industrial uses authorized under ORS 197.- ____ [Sections 1, 2 and 4, HB 2614 (2003)].

(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 UGB;

(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 subsection (b) of section (4) of this rule, 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 subsection (c) of section (3) of this rule, 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; LCDD 3-2003, f. 9-23-03, cert. ef. 9-24-03; LCDD 4-2003, f. & cert. ef. 9-26-03

Landscape Contractors Board Chapter 808

Adm. Order No.: LCB 6-2003

Filed with Sec. of State: 10-1-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 9-1-03

Rules Adopted: 808-002-0130, 808-002-0725

Rules Amended: 808-003-0070, 808-003-0130, 808-004-0260, 808-004-0520, 808-004-0540, 808-004-0550, 808-004-0560, 808-004-0590, 808-008-0020, 808-008-0030, 808-008-0060, 808-008-0080, 808-008-0085, 808-008-0090, 808-008-0120, 808-008-0160, 808-008-0400, 808-008-0425, 808-009-0020, 808-009-0050, 808-009-0070, 808-009-0100, 808-009-0120, 808-009-0140, 808-009-0160, 808-009-0200, 808-009-0220, 808-009-0400, 808-009-0430

Rules Repealed: 808-002-0450

Subject: 808-003-0070 Amends requirement to request oral examination after three unsuccessful attempts to pass all sections of the examination.

808-003-0130 Adjust initial application fee, initial exam fee and retake fees, includes extra fee for processing and mailing examinations to DMV.

808-002-0130 & 808-002-0725 Adopted to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003.

808-002-0450 Repealed to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003.

The following rules are amended to implement HB 2526 (Chapter 75, Oregon Laws 2003) effective on May 22, 2003: 808-004-0260, 808-004-0520, 808-004-0540, 808-004-0550, 808-004-0560, 808-004-0590, 808-008-0020, 808-008-0030, 808-008-0060, 808-008-0080, 808-008-0085, 808-008-0090, 808-008-0120, 808-008-0160, 808-008-0400, 808-008-0425, 808-009-0020, 808-009-0050, 808-009-0070, 808-009-0100, 808-009-0120, 808-009-0140, 808-009-0160, 808-009-0200, 808-009-0220, 808-009-0400, 808-009-0430.

Rules Coordinator: Kim Gladwill-Rowley—(503) 986-6570

808-002-0130

Administrative Law Judge

“Administrative law judge” means a person authorized to conduct hearings for the Office of Administrative Hearings.

Stat. Auth: ORS 670.310 & ORS 671.670

Stats. Implements ORS 671.703

Hist.: LCB 6-2003, f. & cert. ef. 10-1-03

808-002-0725

Office of Administrative Hearings

“Office of Administrative Hearings” means the Office of Administrative Hearings established under chapter 75, Oregon Laws 2003.

Stat. Auth: ORS 670.310 & ORS 671.670

Stats. Implements ORS 671.703

Hist.: LCB 6-2003, f. & cert. ef. 10-1-03

808-003-0070

Exam Failure

(1) Applicants who attempt and fail an examination or section of the exam must wait two weeks before retaking the exam or section of the exam.

(2) After three unsuccessful attempts to pass any section of a written or computerized exam, an applicant may petition the agency for an oral exam.

Stat. Auth.: ORS 183 & ORS 671

Stats. Implemented: ORS 671.570

Hist.: LC 1-1980, f. & ef. 2-5-80; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0027; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-003-0130

Fees

(1) Landscaping business, initial license or renewal: \$225.

(2) Landscape contractor, initial license or renewal: \$75.

(3) Landscaping business, late penalty fee: \$25.

(4) Landscape contractor, late penalty fee: \$25.

(5) Effective January 1, 2004, Individual Landscape Contractor License Application fee: \$60.

ADMINISTRATIVE RULES

(6) Effective January 1, 2004, initial examination fee for any phase of license is:

- (a) \$15 for first section of any exam; and
 - (b) \$10 for each additional section.
- (7) Effective January 1, 2004, retake fees for any section of any exam is:

- (a) \$15 for first section of any exam; and
 - (b) \$10 for each additional section.
- (8) Effective January 1, 2004, exams sent to the DMV, additional processing and mailing fee: \$12.
- (9) Examination, failure to show for a scheduled appointment:
- (a) In Board office, \$20 without a 24 hour advance cancellation notice to the Board office.

- (b) At Proctor Exam Site, forfeits full payment for that exam sitting.
- (10) If a landscape contractor license expires, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.

(11) If a landscaping business license expires the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.

(12) If a landscaping business license expires, and no bond has been in effect during the interim, and a new bond is issued, the amount to be paid for reinstatement equals the required fee for one year plus a late penalty fee.

- (13) The agency may waive the late fee if:
 - (a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or
 - (b) The licensee's failure to meet the renewal date was caused entirely or in part by an agency error or omission.

(14) Payments received after Board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

Stat. Auth.: ORS 183.310 - ORS 183.545, ORS 670.310 & ORS 671.670
Stats. Implemented: ORS 671.650 & ORS 671.660
Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0260

Order Closing a Claim

(1) If the agency closes a claim because the claimant failed to act in response to a request from the agency, the closure of the claim is an order that is not an order in a contested case. An order to close a claim is subject to a motion for reconsideration under ORS 183.484 and OAR 137-004-0080 and an appeal for judicial review under ORS 183.484.

(2) The agency may close a claim under this rule only if it complies with the following:

- (a) The agency must include notification in its request to claimant that failure to act as requested may result in closure of the claim and that closure of the claim will prevent access to the bond.

- (b) The agency may not close the claim sooner than 14 days after giving the notification required in subsection (a) of this section.

- (c) The agency shall notify the parties to the claim that the claim is closed and cite the statutes and rules under which the order may be appealed.

(3) The agency may reopen a claim closed under this rule if the record of the claim contains evidence that shows that the cause of the failure of claimant to act as requested by the agency was due to excusable neglect by the claimant. The agency may reopen the claim:

- (a) In response to a motion for reconsideration; or
- (b) On the agency's own initiative under OAR 137-004-0080 after receiving evidence supporting reconsideration of the order closing the claim.

(4) At the agency's discretion, the agency may refer a claim to the Office of Administrative Hearings for a contested case hearing on whether closure of the claim under this rule is proper.

(5) A party must file a motion for reconsideration of an order closing a claim under this rule before seeking judicial review of the order.

Stat. Auth.: ORS 670.310, 671.703
Stats. Implemented: ORS 183.480, 671.703
Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0520

Processing of Claim Submitted to Court or Other Entity

(1) "Court or other entity" has the meaning given that phrase in division 2 of this chapter.

(2) The agency may suspend processing a claim if:

- (a) The respondent submits a complaint against claimant to a court or other entity that relates to same facts and issues contained in the statement of claim filed against respondent, including but not limited to a breach of contract claim or a suit to foreclose a lien involving the same contract at issue in the claim;

- (b) Claimant submits a complaint against respondent to a court or other entity that relates to same facts and issues contained in the statement of claim filed against respondent; or

- (c) The agency requires the claimant to submit the claim to a court because the agency determined that a court is the appropriate forum for the adjudication of the claim because of the nature or complexity of the claim.

(3) If the agency suspends processing a claim under subsection (2) of this rule, the agency shall notify the claimant on the date it suspends processing the claim that processing has been suspended. The following provisions apply to the agency and the claimant if processing is suspended:

- (a) The notice of suspension of processing shall include notification of the requirements contained in subsections (b) and (d) of this section and shall comply with the requirements of OAR 808-004-0260.

- (b) Beginning six months after the date that the agency suspends processing the claim and no less frequently than every sixth month thereafter, the claimant shall deliver to the agency a written report describing the current status of the action before the court or other entity.

- (c) The agency may, at any time, demand from the claimant a written report describing the current status of any action before a court or other entity. Such demand must be in writing and must comply with the requirements of OAR 808-004-0260. The claimant shall deliver a written response to the agency within 30 days of the date the demand letter is mailed by the agency.

- (d) Within 30 days of the date of final action by the court or other entity, the claimant shall deliver to the agency a copy of the judgment or decision together with a copy of the complaint or other pleadings on which the judgment or decision is based.

- (e) If claimant complies with subsections (b), (c) and (d) of this section, the agency may resume processing the claim. If the claimant fails to comply with subsections (b), (c) or (d) of this section, the agency may close the claim under OAR 808-004-0260.

(4) If the agency suspends processing a claim under subsection (2)(a) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

- (a) The agency shall notify the claimant that the claimant must file the claim as a counter-suit or complaint in the court or other entity and submit evidence, including a copy of the counter-suit or complaint, to the agency that the claimant has done so within 30 days of notification. The notice shall comply with the requirements of OAR 808-004-0260.

- (b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 808-004-0260.

(5) If the agency suspends processing a claim under subsection (2)(c) of this rule, the following provisions apply in addition to the provisions in section (3) of this rule:

- (a) The agency shall notify the claimant, in a notice that complies with the requirements of OAR 808-004-0260, that agency has suspended processing the claim and that the claimant must:

- (A) File the claim as a complaint in a court of competent jurisdiction within 90 days of notification that the agency has suspended processing the claim; and

- (B) Submit evidence, including a copy of the complaint, to the agency that the claimant complied with paragraph (A) of this subsection within 21 days of filing the complaint.

- (b) If the claimant fails to submit the evidence as required under subsection (a) of this section, the agency may close the claim under OAR 808-004-0260.

(6) If the agency resumes processing a claim under section (3) of this rule:

- (a) The agency shall accept a judgment of a court of competent jurisdiction or a decision of another entity as the final determination of the merits of the claim.

- (b) Based on the judgment or decision, the agency shall issue a proposed default order to pay damages or to dismiss or refer the claim to the

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Office of Administrative Hearings a hearing. The following apply to proceedings under this subsection:

(A) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings.

(B) A proposed default order to pay damages issued under this section must include a statement of the portion of the judgment that the agency finds is within the jurisdiction of the agency.

(C) If the agency refers the claim to the Office of Administrative Hearings for a hearing, the administrative law judge shall determine the portion of the judgment, if any, that is within the jurisdiction of the agency.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 183.460, ORS 671.703 & ORS 671.575

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0540

Establishing Monetary Damages, Issuing Proposed Default Order or Referring Claim for Hearing

(1) A claimant may seek monetary damages if the agency has not closed the claim and:

(a) The claimant disagrees with the resolution proposed by the agency;

(b) The respondent cannot or will not comply with the resolution proposed by the agency;

(c) The parties signed a settlement agreement proposed by the agency but, through no fault of the claimant, the respondent has not fulfilled the terms of the settlement agreement, and the agency is so advised in writing by the claimant within 30 days of the date the settlement agreement was to have been completed.

(2) If the claimant seeks monetary damages or the agency so requests, the claimant shall file a declaration of damages stating the amount the claimant alleges the respondent owes the claimant, limited to claim items listed in the Statement of Claim. The agency may require the claimant to submit, in support of the amount alleged:

(a) One or more estimates from licensed landscape businesses for the cost of correction of each of the claim items; or

(b) Other basis for monetary award.

(3) If the agency does not hold an on-site meeting, the agency may issue a proposed default order or refer the claim for a hearing under section (4) of this rule after each party to the claim has had an opportunity to provide evidence supporting its position with regard to the claim. The agency may require that the claimant file a declaration of damages and supporting evidence described under section (2) of this rule.

(4) After documentation required under sections (2) or (3) of this rule is received, the agency may:

(a) Issue a proposed default order proposing dismissal of the claim under OAR 808-004-0550(2) or payment of an amount by the respondent to the claimant; or

(b) Refer the claim to the Office of Administrative Hearings for a hearing to determine the validity of the claim and whether the amount claimed, or some lesser amount, is proper.

(5)(a) The agency may issue a proposed default order that the respondent pay damages to claimant if the record of the claim contains evidence that persuades the agency that:

(A) Claimant suffered damages;

(B) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(C) The monetary value of those damages is substantiated on the record.

(b) The agency may issue a proposed default order that is not described in subsection (a) of this section if the record of the claim contains evidence that persuades the agency of the existence of facts necessary to support the order.

(6) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0550

Proposed Default Order to Dismiss, Other Resolution of Claim by Proposed Default Order

(1) The agency may issue a proposed default order proposing dismissal of a claim if the evidence in the claim record persuades the agency that one of the following grounds for dismissal exists:

(a) The claim is not the type of claim that the agency has jurisdiction to determine under ORS 671.690, 671.703 or OAR 808-004-0320.

(b) The claim was not filed within the time limit specified under ORS 671.710 and OAR 808-004-0320.

(c) The claimant did not permit the respondent to comply with agency recommendations under ORS 671.703.

(d) The respondent breached a contract or performed work negligently or improperly, but the monetary value of damages sustained by the claimant is less than an amount due to the respondent from the claimant under the terms of the contract.

(e) The claimant contends that the respondent failed to fulfill the terms of a settlement that resolved the claim but the agency finds that the respondent fulfilled the respondent's obligation under the settlement agreement.

(2) The agency may issue a proposed default order proposing dismissal of a claim if, after the agency investigates the claim, the record of the claim does not contain evidence that persuades the agency that:

(a) The claimant suffered damages;

(b) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(c) The monetary value of those damages is substantiated on the record.

(3) If the claimant makes a timely request for a hearing after the agency issued a proposed default order under section (1) or (2) of this rule, the agency may:

(a) Refer the claim for a hearing solely to determine whether the dismissal was proper; or

(b) Require that the claimant file a declaration of damages stating an amount the claimant alleges the respondent owes the claimant and refer the claim for a hearing to determine if the claim should be dismissed and if not, the validity of the claim and whether the amount claimed, or some lesser amount is proper.

(4) The provisions of OAR 808-004-0560 apply to a proposed default order or a referral to the Office of Administrative Hearings issued under this rule.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 183.460 & ORS 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0560

Requirements for Proposed Default Order or Referral to Hearing Officer Panel, Hearing Request

(1) A proposed default order on a claim issued by the agency shall include a contested case notice that complies with OAR 137-003-0505.

(2) A referral to the Office of Administrative Hearings for an arbitration or a contested case hearing must:

(a) Comply with OAR 808-004-0590, which regulates whether the claim will be arbitrated or heard as a contested case hearing.

(b) Comply with OAR 137-003-0515, which sets out requirements for the referrals including, but not limited to formal requirements.

(c) Include a contested case notice if the agency did not issue a contested case notice under OAR 137-003-0505 prior to the agency's referral of the claim to the Office of Administrative Hearings

(3) If the agency refers a claim to the Office of Administrative Hearings for arbitration or a contested case hearing on the amount, if any, that the respondent owes the claimant, the following requirements apply:

(a) The referral to the Office of Administrative Hearings must identify by date the declaration of damages on the Statement of Claim that limits the amount that the respondent may be ordered to pay the claimant and state the amount that the order is limited to under OAR 808-009-0160 and 808-008-0420.

(b) The agency shall serve on the parties an explanation of

(A) The limitation on the amount a respondent may be ordered to pay a claimant under OAR 808-009-0160 and 808-008-0420; and

(B) The procedure to file a new declaration of damages under OAR 808-009-0020 and 808-008-0110.

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(4)(a) To be timely, a request for a hearing must be in writing and be received by the agency within 21 days from the date a proposed default order is mailed by the agency.

(b) An untimely request for a hearing must comply with the requirements of OAR 137-003-0528. The agency may require that the request be supported by an affidavit setting out facts that affirmatively show that the failure to make a timely request was beyond the reasonable control of the party.

(5) The agency may issue a proposed default order under OAR 137-003-0670(4) that will automatically become a final order 21 days after the date of issue without further notice if no party makes a timely request for a hearing.

(6)(a) Except as provided in subsection (b) of this section, a contested case notice issued under this rule must include a statement that the agency's file on the claim is designated as the record only for purposes of a default order issued under this rule and not for purposes of an order by default issued after a hearing under OAR 808-009-0140.

(b) If a proposed default order issued under this rule is an order to dismiss a claim, a contested case notice issued under this rule may include a statement that the agency's file on the claim is designated as the record for purposes of a default order issued under this rule and of an order by default issued after a hearing under OAR 808-009-0140.

Stat. Auth.: ORS 183.415, ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415

Hist.: LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 5-2003, f. & cert. ef. 10-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-004-0590

Referral of Claim to Arbitrator or Contested Case Hearing or Removal to Court

(1) If a hearing on a claim is conducted by the Office of Administrative Hearings:

(a) The hearing shall be held as an arbitration under the rules in Division 8 of this chapter, unless a party requests that the hearing be held as a contested case hearing under subsection (b) of this section or files the dispute in court under section (2) of this rule.

(b) Except as provided in sections (2) and (6) of this rule, the hearing shall be held as a contested case hearing under OAR 137-003-0501 to 137-003-0700 and the rules in division 9 of this chapter if:

(A) A party to the claim makes a timely written request under section (4) of this rule that the claim be heard as a contested case; or

(B) The agency requests under sections (4) and (6) of this rule that the claim be heard as a contested case.

(2) Subject to section (3) of this rule, a claim shall be decided in court if:

(a) The claimant files a complaint in court that alleges the elements of the claim in the complaint; or

(b) The respondent files a complaint in court for damages, a complaint for declaratory judgment, or another complaint that arises from the contract or work that is the subject of the claim and that allows the claimant to file a response alleging the elements of the claim.

(3) A copy of a complaint filed under section (2) of this rule must be received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration or contested case hearing is scheduled. Failure to deliver the copy of the complaint within the time limitation in this rule constitutes waiver of the right to have the claim decided in court and consent to the hearing being held as binding arbitration or a contested case hearing under section (1) of this rule. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 808-010-0085, whichever is applicable.

(4) A request that a claim be heard as a contested case filed under section (1)(b) of this rule is subject to the following:

(a) The request by a party or the agency must be in writing and received by the agency or the Office of Administrative Hearings no later than 30 days after the Office of Administrative Hearings sends the first notice that an arbitration is scheduled. Delivery shall be either to the agency or the Office of Administrative Hearings as required by OAR 137-003-0520 or 808-008-0085, whichever is applicable.

(b) A referral of a claim to the Office of Administrative Hearings by the agency for a contested case hearing shall be deemed a request that the claim be heard as a contested case under section (1)(b) of this rule.

(c) A party or the agency may not withdraw a request made under this section without the written consent of the agency and all parties to the claim.

(5) Failure to deliver a timely written request for a contested case hearing under sections (1)(b) and (4) of this rule or a copy of a filed complaint under sections (2) and (3) of this rule constitutes consent to the hearing on the claim being held as binding arbitration under section (1)(a) of this rule.

(6) The agency may request under section (1)(b)(B) of this rule that a hearing be held as a contested case hearing if:

(a) The agency's jurisdiction to decide the claim under ORS 671.690 to 671.710 is at issue; or

(b) The agency determines that the agency has an interest in interpreting the rules and statutes that apply to the claim.

(7) The amendment to this rule that became effective on or after March 1, 2003 apply to a claim that is referred to the Office of Administrative Hearings after March 1, 2003.

Stat. Auth.: ORS 670.310, ORS 671.703

Stats. Implemented: ORS 671.703

Hist. LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0020

Applicability of Rules

(1) The rules in this division shall apply when:

(a) A claim is referred to the Office of Administrative Hearings for arbitration under OAR 808-004-0590;

(b) The parties to the arbitration agree that the Landscape Contractors Board may arbitrate a landscape dispute and the agency accepts the dispute for arbitration under ORS 671.703;

(c) A timely claim is filed relative to work performed under a contract which contains an arbitration clause specifying that the Landscape Contractors Board shall arbitrate disputes arising from the contract and the agency accepts the dispute for arbitration under ORS 671.703; or

(d) Arbitration by the Landscape Contractors Board is ordered by a court in accordance with ORS 36.310.

(2) The amendments to the rules in division 8 of this chapter that became effective on or after March 1, 2003 apply only to disputes referred to the Office of Administrative Hearings for arbitration:

(a) On or after March 1, 2003; and

(b) Before March 1, 2003, if each party to the dispute files a written consent to the application of these amendments to the arbitration.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0030

Incorporation of Office of Administrative Hearings Rules

(1) The following rules related to the contested case hearings conducted by administrative law judges assigned to the Office of Administrative Hearings are incorporated into these rules by this reference and apply to arbitrations conducted under the rules in this division:

(a) OAR 137-003-0580 (Summary judgment);

(b) OAR 137-003-0590 (Qualified interpreters); and

(c) OAR 137-003-0605 (Telephone testimony).

(2) In interpreting rules incorporated under section (1) of this rule:

(a) "Hearing" in the incorporated rule shall be given the same meaning as "arbitration" in these rules; and

(b) "Administrative law judges" in the incorporated rule shall be given the same meaning as "arbitrator" in these rules.

Stat. Auth.: ORS 670.310, & ORS 671.670

Stats. Implemented: ORS 183, ORS 671

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0060

Appointment of Arbitrator

Appointment of arbitrator shall be as provided in ORS 671.703 and shall be subject to a request for a different administrative law judge to act as arbitrator under section 11, chapter 849, Oregon Laws 1999 and OAR 471-060-0005.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

ADMINISTRATIVE RULES

808-008-0080

Delegation of Duties

If the agency refers a dispute to the Office of Administrative Hearings for arbitration under these rules, the duties of the agency under these rules may be carried out through representatives as directed by the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge, except that the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may not perform the duties of the agency under OAR 808-008-0040, 808-008-0100 or 808-008-0440.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0085

Filing and Service of Pleadings and Other Documents

(1) Unless otherwise provided by these rules, documents, correspondence, motions, pleadings, rulings and orders filed in an arbitration under these rules shall be filed as follows:

(a) With the agency before the claim is referred by the agency to the Office of Administrative Hearings.

(b) With the Office of Administrative Hearings or assigned arbitrator after the agency refers the claim to the Office of Administrative Hearings and before the arbitrator issues an award.

(c) With the agency after the arbitrator issues an award.

(2) After the agency refers the claim to the Office of Administrative Hearings and before the arbitrator issues an award, a person who files a document such as a correspondence, motion, pleading, ruling or order with the Office of Administrative Hearings or arbitrator in an arbitration shall serve copies of the document filed on the parties to the claim or their counsel if the parties are represented.

(3) Service shall be by hand delivery, by facsimile or by mail.

(4) A party shall notify the Office of Administrative Hearings or arbitrator, the agency and other parties to the claim of any change in the party's address or withdrawal or change of the party's legal counsel.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.671

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0090

Request for Contested Case Hearing or Removal to Court

(1) If the Office of Administrative Hearings receives a request under OAR 808-004-0590 to conduct the hearing on a claim as a contested case, the Office of Administrative Hearings shall retain jurisdiction over the claim. The Office of Administrative Hearings shall hold the contested case hearing at the time scheduled for the arbitration unless good cause exists to reschedule the hearing date and time.

(2) If the Office of Administrative Hearings receives notice under OAR 808-004-0590 that a party to the claim filed a complaint under that rule that requires that the claim be decided in court, the Office of Administrative Hearings shall return the claim to the agency.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310, & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0120

Time and Place of Arbitration Hearing; Notice

The Office of Administrative Hearings shall fix a time and place for the arbitration hearing. The Office of Administrative Hearings will mail notice of the time and place of the arbitration at least 21 days prior to the arbitration, unless otherwise agreed to by the parties.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0160

Substitution of Arbitrator

(1) The agency administrator or a person designated by the agency administrator may substitute another arbitrator at any time before the arbitration hearing begins.

(2) If the agency refers a dispute to the Office of Administrative Hearings for arbitration under these rules, the Chief Administrative Law Judge or a person designated by the Chief Law Judge may substitute another arbitrator at any time before the arbitration hearing begins.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 671.703

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0400

Service of Notices and Other

(1) Initial notice of an arbitration hearing by the agency shall be considered delivered or served on a party when deposited in the United States mail and sent registered certified or post office receipt secured addressed to the last known address of record of the party.

(2) Any communication other than hearing notices, including the arbitrator's award, sent by the agency or the Office of Administrative Hearings shall be considered delivered or served on a party when deposited in regular mail addressed to the last known address of record of the party.

Stat. Auth.: ORS 183.310 - ORS 183.500, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703(3)

Hist.: LCB 1-1993, f. & cert. ef. 1-19-93; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0100; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-008-0425

Petition for Reconsideration

(1) A party to an arbitration may petition the arbitrator to reconsider an award. A party may file only one petition for reconsideration of an award.

(2) The petition for reconsideration must be in writing and substantially conform to the requirements of OAR 808-008-0430.

(3) To be considered, a petition for reconsideration must be received by the arbitrator within 21 days of mailing the proposed award.

(4) If the arbitrator receives a timely petition for reconsideration, the arbitrator shall mail copies of the petition to the other parties to the arbitration and the agency. A party may respond to the petition for reconsideration. To be considered, a response to the petition must be received by the arbitrator within 14 days of the date that the arbitrator mailed a copy of the petition for reconsideration to the party.

(5) The arbitrator may waive or extend the time limitations in sections (3) and (4) of this rule on a showing of good cause by the person requesting the waiver or extension.

(6) Within 30 days after the date allowed for receiving a response to the petition, the arbitrator shall issue and serve on the parties and the agency a written decision to grant the petition and reconsider the award or deny the petition and refuse reconsideration. The following apply to a decision under this section:

(a) The decision may include an award on reconsideration under section (8) of this rule.

(b) The arbitrator may deny a petition for reconsideration if the petition is untimely, defective in form or raises no substantial grounds for reconsideration.

(7) The agency may extend the time to issue a decision on a petition for reconsideration under section (6) of this rule.

(8) If the arbitrator grants reconsideration, the arbitrator shall consider the petition and any response received from a non-petitioning party, except that the arbitrator may not consider evidence that was not introduced at the arbitration. The arbitrator shall issue an award on reconsideration that addresses each substantial issue raised in the petition. The award on reconsideration may summarily dismiss issues as appropriate. The arbitrator may:

(a) Affirm the original award and incorporate it in the award on reconsideration by reference;

(b) Issue a new award on reconsideration; or

(c) Conduct additional arbitration and issue an award under subsection (a) or (b) of this section as the arbitrator deems appropriate.

(9) If an arbitrator issues denial of a request for reconsideration under section (6) of this rule or an award on reconsideration under section (8) of this rule, a party to the arbitration may not file a further petition for reconsideration on the denial or the award on reconsideration.

(10) If the arbitrator who prepared the award is not available to consider a petition for reconsideration on the award, the Chief Administrative Law Judge or a person designated by the Chief Administrative Law Judge may assign another arbitrator to review the tapes and exhibits of the arbitration, the award, the petition and any response and render a decision on the petition. If the new arbitrator is unable to render a decision on the petition, the petition shall be deemed denied.

Stat. Auth.: ORS 183.310 - 183.500, ORS 670.310

Stats. Implemented: ORS 183

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

ADMINISTRATIVE RULES

808-009-0020

Amendment to Declaration of Damages

(1) If the agency refers a claim to the Office of Administrative Hearings for a hearing on the amount that the respondent owes the claimant, the claimant may amend the amount the claimant alleges the respondent owes the claimant by filing a new declaration of damages form. An amended declaration of damages must be filed under OAR 137-003-0520 and 808-009-0085 with the administrative law judge or the Office of Administrative Hearings if no administrative law judge has been assigned to hear the claim. An amended declaration of damages filed under this section must be received by the administrative law judge or the Office of Administrative Hearings no later than 14 days prior to the scheduled date of a hearing on the matter.

(2) An amended declaration of damages filed under section (1) of this rule must be on a form provided by the agency or on a form that substantially conforms to the form provided by the agency. The amended declaration of damage must state the amount alleged to be owed by the respondent, limited to items of complaint in the Statement of Claim. The new declaration of damages must be signed by the claimant.

(3) An amended declaration of damages making a significant change in the amount the claimant alleges that the respondent owes the claimant may be good cause to postpone the scheduled hearing under OAR 137-003-0525 if the time left before the hearing is insufficient to prepare for a hearing on the amended amount.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415 & ORS 671

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0050

Providing Required Information to Parties

The agency delegates to the Office of Administrative Hearings or the law judge assigned to hear a claim the responsibility to provide the information required to be given to each party under ORS 183.413(2) and 137-003-0510(1).

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415 & ORS 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0070

Suspending Processing

(1) An administrative law judge may suspend or cancel a hearing at any time if the administrative law judge finds that the nature or complexity of the issues is such that a court is a more appropriate forum for adjudication. If a administrative law judge suspends or cancels a hearing under this rule, the administrative law judge shall refer the claim to the agency with a memorandum recommending that processing of the claim be suspended under ORS 671.703 and OAR 808-004-0520 and stating the basis of the recommendation. A copy of this memorandum shall be served on the parties.

(2) If a claim is referred to the agency under section (1) of this rule, the agency may:

(a) Suspend processing the claim; or

(b) Refer the claim back to the administrative law judge with instructions to resume the hearing.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415 & ORS 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0100

Burden of Proof and Failure to Meet Burden

(1) A claimant must prove that:

(a) The claimant suffered damages;

(b) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(c) The monetary value of those damages is substantiated on the record.

(2) If the claimant fails to carry the burden of proof described in section (1) of this rule, the law judge shall dismiss the claim.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-

95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; Administrative correction 6-21-01; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0120

Determination of Validity of Claim

In determining the validity of the claim, the administrative law judge shall determine:

(1) Whether the claim arose out of a transaction within the scope of ORS 671.510 to 671.710;

(2) Whether the agency has jurisdiction over the matters at issue;

(3) Whether:

(a) Claimant suffered damages;

(b) Respondent caused those damages by performing negligent or improper work or a breach of contract in performing work subject to ORS 671.510 to 671.710; and

(c) The monetary value of those damages is substantiated on the record.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0140

Failure to Appear

(1) "Order" as used in this rule means a proposed and final order a law judge is authorized to issue under OAR 808-009-00160.

(2) If the administrative law judge notified the parties to a claim of the time and place of a hearing on the claim, and a party failed to appear at the hearing, the administrative law judge may enter an order by default under OAR 137-003-0670(1)(c) that :

(a) Is adverse to a party only upon a prima facie case made on the record as required by OAR 137-003-0670(3); or

(b) Dismisses the claim based on a lack of evidence in the record supporting claimant's claim, but only if:

(A) The agency did not designate the agency file as the record for purposes of an order by default in the contested case notice issued under OAR 808-004-0560; and

(B) The claimant failed to appear at the hearing.

Authorized for use by Attorney General order dated December 13, 2002. (Section (1) based on former OAR 808-004-0030(13) (1999); section (2) based on former OAR 808-004-0030(14) (1999))

Stat. Auth.: ORS 183, 670, 670.310 & 671

Stats. Implemented: ORS 183, 670 & 671

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 6-2002, f. & cert. ef. 12-18-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0160

Order Based on Hearing, Limitation on Order

(1) "Order" as used in sections (2) to (5) of this rule means a proposed and final order a administrative law judge is authorized to issue under section (6) of this rule.

(2) If a claim is referred for a hearing to determine the amount, if any, that a respondent owes a claimant, the administrative law judge may not issue an order in an amount greater than the total amount claimant alleges respondent owes claimant in:

(a) The most recent declaration of damages or amended declaration of damages filed under OAR 808-004-0540, 808-004-0550 or 808-009-0020; or

(b) The Statement of Claim filed under OAR 808-004-0340, if no declaration of damages was filed.

(3) If a claim is referred for a hearing to determine whether any portion of a judgment is within the jurisdiction of the agency, the administrative law judge may not issue an order requiring payment of an amount greater than the amount of the judgment.

(4) An order issued by an administrative law judge may direct specific performance on the part of the respondent, order the respondent to pay monetary damages to the claimant or dismiss the claim.

(5) An administrative law judge shall consider any amounts due to the respondent from the claimant under the terms of the contract and reduce the amount of an order by that amount.

(6) Except as provided in OAR 808-009-0200, an administrative law judge shall issue a proposed and final order under OAR 137-003-0645(4)

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that shall automatically become a final order 21 days after the date of issue without further notice unless;

(a) A party files timely exceptions under OAR 808-009-0400;
(b) The agency requests that the administrative law judge hold a further hearing or revise or amend the proposed order under OAR 137-003-0655(1);

(c) The agency issues an amended proposed order under OAR 137-003-0655(3); or

(d) The agency notifies the parties and the administrative law judge that the agency will issue the final order.

(7) If a limitation on damages under section (2) is based on a declaration of damages or Statement of claim that includes an itemization of claim items and the total of those items is different from the total damages claimant alleges is due from the respondent, the limitation on damages shall be based on the larger of the two totals.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415, ORS 671.703

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; Renumbered from 808-010-0045; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f.; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 1-2000, f. & cert. ef. 2-1-00; Renumbered from 808-004-0030; LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 5-2003, f. & cert. ef. 8-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0200

Final Order without a Proposed Order

If the parties voluntarily agree to a settlement of a claim in accordance with ORS 183.415(5) and the settlement agreement includes an agreement for future performance, the administrative law judge shall issue an intermediate order containing any necessary findings of fact and return the claim to the agency for further processing and issuance of the final order.

Stat. Auth.: ORS 670.310, & ORS 671.670

Stats. Implemented: ORS 183 & ORS 671

Hist.: LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0220

Petition for Reconsideration or Rehearing; Request for Stay

A petition for reconsideration or rehearing under OAR 137-003-0675 or a request for a stay under OAR 137-003-0690 of a final order on a claim issued by an administrative law judge under this division must be filed with the agency.

Stat. Auth.: ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.415 & ORS 671.703

Hist.: LCB 2-2000(Temp), f. 5-31-00, cert. ef. 5-31-00 thru 11-26-00; LCB 3-2000, f. & cert. ef. 7-26-00; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0400

Exceptions to Agency Orders, Claims

(1) After a contested case claim hearing, claimant or licensee may file written exceptions if they believe that the administrative law judge has made a procedural error or that the proposed order is not supported by evidence received at the hearing.

(2) To be considered:

(a) The first exceptions must be received by the agency within 21 days of the date of mailing the proposed order.

(b) If one party files timely exceptions, exceptions by the opposing party, if that party chooses to file them, must be received by the agency within 14 days after the date the agency mails a copy of the first exceptions to the opposing party.

(3)(a) If written exceptions are not timely received, the order will become final under OAR 808-009-0160.

(b) If exceptions are timely received, the matter will be set for consideration by the Board at a regularly scheduled Board meeting for which agenda space is available.

(4) The exceptions must substantially conform to the requirements set forth in OAR 808-009-0430.

(5) Copies of exceptions filed will be mailed to the other side who may respond to the exceptions. Response and any written argument for or against the proposed order will be accepted up to 15 days prior to the Board meeting date if the original exceptions were timely received.

(6)(a) If a party filing exceptions intends to rely on oral testimony given at the hearing, the party must include in the exceptions:

(A) A notice of the intention to rely on oral testimony, and

(B) A request for a copy of the tape of the hearing with the fee required under OAR 808-001-0020.

(b) After the agency receives a party's exceptions containing a notice of an intention to rely on oral testimony under subsection (a) of this section, the agency must send a copy of the tape of the hearing to the other party to

the claim at no charge unless that party also filed exceptions that included a notice of intention to rely on oral testimony.

(c) The party that filed the notice of intention to rely on oral testimony must prepare a typed transcript of the portions of the hearing testimony that the party contends support the exceptions filed. The party must deliver the transcript to the agency 21 days after the date of mailing of the tape of the hearing by the agency to the party.

(d) The agency must mail a copy of the transcript to the other party to the claim.

(7)(a) The party opposing the exceptions may prepare a typed transcript of the portions of the hearing testimony that the party contends support opposition to the exceptions. The opposing party must deliver the transcript to the agency 21 days after the date the agency mailed the transcript under subsection (6)(d) of this rule.

(b) The agency must mail a copy of the transcript prepared under this section to the party that filed the exceptions.

(8) The Board may refuse to consider evidence of oral testimony submitted by a party if the party fails to comply with the requirements of sections (6) and (7) of this rule.

(9) Claimant and respondent may appear before the members of the Board to argue for or against the proposed order.

(10) The agency may waive or extend the time limitations in sections (5) through (7) of this rule on its own motion or on a showing of good cause by the person requesting the waiver.

Stat. Auth.: ORS 183, ORS 670.310 & ORS 671.670

Stats. Implemented: ORS 183.413 - ORS 183.470

Hist.: LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; LCB 2-1990, f. 7-27-90, cert. ef. 8-1-90; LCB 1-2000, f. & cert. ef. 2-1-00, Renumbered from 808-001-0025; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 2-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03

808-009-0430

Form of Exceptions to Agency Order

(1) Exceptions to an agency order filed by a party to a claim under OAR 808-009-0400 or a respondent under 808-009-0420 shall conform to the following requirements:

(a) Exceptions shall be typed or legibly printed on 8-1/2 by 11" sheets of paper.

(b) The first page of the exceptions must be titled "Exceptions to Proposed Order." If the exceptions are filed in a claim, the first page shall show the claim number, the names of the parties to the claim and the party submitting the exceptions at the top of the page. If the exceptions are filed in an enforcement action, the first page shall show the name of the respondent at the top of the page.

(c) Each page of the exceptions shall be numbered at the bottom of the page.

(d) For each finding of fact in the proposed order that the party alleges is not supported by the evidence in the record the following information shall be included in the exceptions:

(A) The pages on which the finding of fact appear and the number, if any of the finding of fact;

(B) The text of the finding of fact; and

(C) An explanation or argument supporting the party's contention that the evidence in the record does not support the finding of fact.

(e) For each conclusion in the proposed order that the party alleges is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision the following information must be included in the exceptions:

(A) The pages on which the conclusion and the opinion that supports it appear;

(B) The text of the conclusion; and

(C) An explanation or argument supporting the party's contention that the conclusion is based on an erroneous interpretation or application of a statute or administrative rule or is contrary to an appellate court decision.

(f) For each procedural error committed by the administrative law judge that the party contends directly affected the decision in the proposed order in a manner prejudicial to the party the following information shall be included in the exceptions:

(A) A description of the procedural error; and

(B) An explanation or argument supporting the party's contention that the procedural error affected the decision and was prejudicial to the party filing the exceptions.

(g) If the party intends to rely on oral testimony at the hearing, a notification that the party intends to rely on oral testimony shall be included in the exceptions.

(h) The party submitting the exceptions shall sign and date the exceptions.

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(2) The Board may refuse to consider exceptions that do not substantially meet the requirements of section (1) of this rule.

Stat. Auth.: ORS 670.310, ORS 671.670, ORS 671.703
Stats. Implemented: ORS 183 & ORS 671.703
Hist.: LCB 4-2002, f. & cert. ef. 12-4-02; LCB 6-2003, f. & cert. ef. 10-1-03

Office of Energy
Chapter 330

Adm. Order No.: DOE 2-2003

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 10-1-03

Notice Publication Date: 8-1-03

Rules Amended: 330-001-0005, 330-060-0005, 330-060-0010, 330-060-0015, 330-060-0020, 330-060-0040, 330-060-0060, 330-060-0065, 330-060-0070, 330-060-0075, 330-060-0090, 330-060-0095, 330-061-0005, 330-061-0010, 330-061-0015, 330-061-0020, 330-061-0025, 330-061-0030, 330-061-0035, 330-061-0040, 330-061-0045, 330-061-0050

Rules Repealed: 330-060-0022, 330-060-0025, 330-060-0026, 330-060-0030, 330-060-0035, 330-060-0080, 330-060-0085

Subject: 1. Continue State Home Oil Weatherization (SHOW) program rebates, although some are at a reduced level, for certain energy conservation measures and discontinue the rebate for replacement heating oil tanks, all of which were previously eligible for rebates only under a pilot program;

2. Qualify new energy conservation measures for the rebates;

3. Allow persons informed about energy conservation measures to perform energy audits required for customers to receive rebates; and

4. Update the rules, make them simpler and clearer, and make housekeeping changes.

5. Update Model Rules reference.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Department of Energy adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act as amended and effective October 3, 2001.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Department of Energy.]

Stat. Auth.: ORS 183
Stats. Implemented: ORS 183
Hist.: DOE 1, f. 8-27-75, ef. 9-25-75; DOE 4-1978, f. & ef. 5-2-78; DOE 4-1980, f. & ef. 3-12-80; DOE 6-1981, f. & ef. 12-1-81; DOE 5-1988, f. & cert. ef. 8-18-88; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0005

Purpose

(1) OAR 330-060-0005 through 330-060-0095 describe qualifying energy conservation measures, the basis for the energy audit, prescribe how fuel oil dealers shall provide energy conservation services to their residential customers as required by ORS 469.673 through 469.679, and prescribe the standards for state financed 6.5 percent interest loans made under Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991.

(2) These rules are effective October 1, 2003 or upon filing with the Secretary of State, whichever is later and shall apply to energy conservation measure rebate applications postmarked on or after the effective date of these rules.

Stat. Auth.: ORS 469
Stats. Implemented: ORS 469.673
Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-29-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0010

Definitions

As used in OAR 330-060-0005 through 330-060-0095, unless the context requires otherwise:

(1) "Administrator" – The Administrator of the Energy Office.

(2) "Annual Rate" – The yearly interest rate specified on the note. This is not the annual percentage rate, if any, disclosed to the applicant under the federal Truth in Lending Act.

(3) "ASHRAE" – American Society of Heating, Refrigeration, and Air Conditioning Engineers.

(4) "Auditor" – The person who gathers information at the dwelling to complete a report recommending energy conservation measures consistent with the standards set in these rules and the energy conservation measures specifications.

(5) "Buffer Space" – An enclosed but unheated space such as a garage, porch, unheated basement, crawl space or attic, which abuts a heated space.

(6) "Commercial Energy Auditor" – A person who through training or experience has a general knowledge of heat transfer principles, construction practices, energy efficient operations and maintenance procedures, boiler and furnace efficiency improvements, infiltration controls, envelope weatherization, heating, ventilating and air conditioning systems, electric control systems, lighting systems, and solar and energy conservation measures.

(7) "Commercial Energy Audit" – The service provided by a commercial energy auditor to the owner of an apartment building which is centrally heated. It includes on-site data gathering, energy use analysis, and a report to the owner recommending energy conservation measures.

(8) "Cost-Effective" – The present value of energy saved over the life of an energy conservation measure is worth more than the measure's cost. However, the energy savings of a measure shall receive a ten percent "bonus".

(9) "Customer" – A residential customer or dwelling owner.

(10) "Dealer" – Fuel oil dealer or any person or organization which supplies fuel oil at retail for the heating of dwellings.

(11) "Dwelling" – Real or personal property in Oregon which is the principal residence of the owner or a tenant. "Dwelling" includes a mobile home as defined in ORS 446.003, a floating home as defined in ORS 488.705 and a single unit in an apartment building. "Dwelling" does not include a recreational vehicle as defined in ORS 446.003.

(12) "Dwelling Owner" – The person who has legal title to a dwelling, including the mortgagor under a mortgage, the trustor under a deed of trust, or a purchaser under a contract.

(13) "Energy Audit" means a written report completed to recommend energy conservation measures consistent with the standards set in these rules and the energy conservation measures specifications.

(14) "Energy Conservation Measures" – Items that are primarily designed to improve the energy efficiency of a dwelling:

(a) In the case of dwellings not receiving a commercial energy audit, these measures are limited to:

(A) Caulking, weatherstripping and other prescriptive actions to seal the heated space and ducts in a dwelling;

(B) Insulation of ceilings or attics to R-38 if achievable in areas with R-19 or less, including insulation installed on flat roofs (but excluding any fire or weatherproofing or roofing materials installed over the insulation) and associated ventilation;

(C) Insulation of outside walls to a nominal R-13 if achievable in areas where no insulation is present, of unfinished walls adjacent to unheated areas to R-21 if achievable in areas where no insulation is present, and of finished walls adjacent to unheated areas to R-11 if achievable in areas where no insulation is present;

(D) Insulation of floors over unheated spaces to at least R-25 if achievable in areas where no insulation is present, and materials to support the insulation and needed ground cover and ventilation;

(E) Insulation and sealing of supply and return air ducts in unheated spaces to at least R-8 if achievable and no insulation is present and the ducts are in unheated areas;

(F) Insulation of water heaters, water pipes, or steam pipes in unheated spaces and for at least ten feet from the water heater in unheated areas to at least R-3 if achievable and no insulation is present;

(G) Vapor barrier materials;

(H) Double glazed windows (including sliding doors) with a U-value of at least 0.35 or lower replacing less energy efficient windows.

(I) Storm doors covering uninsulated exterior doors;

(J) Storm windows over single pane glass windows on an exception basis when double glazed windows are not a practical option;

(K) Insulated exterior doors with a U-value of at least 0.20.

(L) Replacement fuel oil burners, including electrical controls and combustion chamber improvements when needed, which increase combustion efficiency of oil furnaces or boilers. A replacement burner must have a tested steady state efficiency of at least 80 percent and be replacing a burner that is more than 10 years old or is in a heating systems with a tested steady state efficiency of 70 percent or less;

(M) Fuel oil furnaces or boilers with tested steady state efficiency of at least 81 percent replacing a fuel oil heating system that is more than 20

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years old or has a steady-state efficiency of 70 percent or less or as otherwise authorized by the Energy Office;

(N) Programmable thermostats;

(O) Blower door tests and blower door assisted whole house air sealing or duct sealing performed by a contractor certified by the Energy Office's Residential Energy Tax Credit contractor certification program;

(P) Dehumidifiers; and

(Q) Exhaust fans and venting to provide spot ventilation in kitchens, bathrooms, utility rooms, or other areas where as the result of installing recommended energy conservation measures moisture problems could be created or worsened.

(b) In the case of centrally-heated apartment buildings receiving a commercial energy audit, measures shall be primarily designed to reduce fuel oil use. In addition to measures listed in subsection (a) of this section, the measures may include but not be limited to:

(A) Automatic energy control systems;

(B) Equipment, associated with such control systems, which is needed to run variable steam, hydraulic and ventilating systems;

(C) Furnace or boiler plant and distribution system modifications. This includes devices for modifying flue openings which will increase the efficiency of the heating system; or

(D) Lighting system improvements.

(15) "Energy Conservation Measures Specifications" – All energy conservation measures shall meet the installation provisions of the Energy Office's Energy Conservation Measure Specifications. All heating system improvements shall meet the steady state efficiency requirements of these rules. All blower door assisted whole house air sealing and duct sealing measures shall meet the specifications of the Energy Office's Residential Energy Tax Credit contractor certification program.

(16) "Energy Office" – The Office of Energy, of the State of Oregon.

(17) "Finance Charge" – The total of all interest, loan fees, and other charges related to the cost of obtaining credit. This includes any interest on any loan fees financed by the lender.

(18) "Fuel Oil" – Any petroleum product sold by a petroleum supplier for use as a residential heating fuel, including heating oil, propane, butane and kerosene.

(19) "Landlord" – A dwelling owner who rents his or her dwelling to a tenant.

(20) "Lender" – Any bank, mortgage company, trust company, savings and loan, or credit union having an office in Oregon.

(21) "Lighting system improvements" – Measures which will reduce energy use in the lighting system by at least 25% if recommended in the commercial energy audit.

(22) "Residential Customer" – A dwelling owner or tenant who is billed by a dealer for fuel oil received at the dwelling.

(23) "Space-Heating" – The heating of living space within a dwelling.

(24) "State Incentive" – The energy conservation measure rebate or any other state incentive which gives a customer a cash payment for an energy conservation measure.

(25) "Tenant" – A tenant as defined in ORS 91.100 or any other tenant.

(26) "Trade Ally" – means a contractor licensed in the State of Oregon to install energy conservation measures.

(27) "Unheated Space" – An area in a dwelling which is not connected to a heating system fueled by fuel oil or wood.

(28) "Wood Heating Resident" – A person whose primary space heating fuel is any form of wood, including sawdust:

(a) In the case of a dwelling which has an installed central electric or gas heating system the customer is eligible for rebate and loan financing under this program if not eligible for such financial assistance from the utility; or

(b) In the case of a dwelling which has baseboard or portable space heaters, the customer is eligible for rebate and loan financing under this program if not eligible for such financial assistance from the utility.

(c) In the case of a dwelling that has no installed heating system other than wood, the customer is eligible for rebate and loan financing under this program.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.673

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0015

Description of Residential Energy Conservation Program

As defined in ORS 469.673 through 469.679, each dealer shall establish an energy conservation services program and shall provide energy conservation information to customers and to the public. A dealer may rely upon the services contracted for by the Administrator pursuant to ORS 469.677, instead of presenting a separate program, or complete the energy audits as a trade ally, as provided in these rules.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.673

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0020

Reliance on the Statewide Fuel Oil Audit Program

(1) The Administrator shall contract for a statewide energy audit program to give the information, help and technical advice required of dealers by ORS 469.675.

(2) A dealer who relies on the statewide energy audit program may, however:

(a) Notify its customers about this program, including a toll-free number to request energy audits; or

(b) Act as a contact between its customers and the statewide energy audit program. Such a dealer may pass on its customers' requests for energy audits to the statewide energy audit contractor chosen by the Energy Office.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0040

Low-Interest Loans Through Lenders

(1) State financed 6.5 percent interest loans made under Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall meet the following standards:

(a) A loan shall be made only to a dwelling owner who is or who rents to a residential fuel oil customer or a wood heating resident;

(b) Only energy conservation measures recommended as cost-effective in the energy audit, recommended adjuncts to those measures, and any loan fee that is included in the body of the loan shall qualify for the loans;

(c) The maximum loan limit, including the loan fee, is \$5,000 for each eligible dwelling unit. If the dwelling owner is a corporation operating a non-profit home for the elderly, a loan shall not exceed \$2,000 per dwelling unit;

(d) A lender may charge, finance, and collect a nonrefundable front-end loan fee. Charging such a loan fee will not disqualify the loan for a tax credit under this section. The fee shall not exceed that charged by the lender for nonsubsidized loans made under like terms and conditions at the time the subject loan is made;

(e) There is no limit on the number of eligible dwelling units for which a dwelling owner may receive a loan;

(f) Loans shall not finance the following:

(A) Converting space heat equipment from oil or wood to another source of fuel;

(B) Space heating heat pumps;

(C) Water heating heat pumps;

(D) Wood-burning devices;

(E) Any measure that would benefit all or part of a non-residential commercial building unless the building has some residential living space. In the case of a commercial building which has some residential living space the following can qualify for a loan:

(i) That part of the building used exclusively for residential; and

(ii) In a centrally heated building, a prorated share of the cost of a heating system. This share shall be based on the percentage of residential to total square footage served by the heating system.

EXAMPLE: 1,000 square feet is commercial, 2,000 square feet is residential – 2/3 of the cost of an eligible heating system could qualify for the loan.

(F) Solar equipment;

(G) Any materials used in building a new dwelling, additions to dwellings or remodeling which adds living space;

(H) That part of the cost of the measures for which the dwelling owner receives a state cash incentive.

(g) The costs of materials for "do-it-yourself" jobs may be included in the loan. No labor costs of such jobs shall qualify for the loan.

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(2) In order to qualify for a loan, the dwelling owner must submit to the Energy Office written permission to inspect the job to verify that the measures have been installed.

(3) In applying for the loan, a dwelling owner shall present to the lender:

(a) For contractor-installed measures, at least one written bid itemizing measures to be included in the loan and their costs. The Energy Office may require that contractors use bid forms provided by the Energy Office; and

(b) For “do-it-yourself” measures, an itemized list of materials to be installed and their costs.

(4) Lenders may receive a state tax credit in accord with Section 28, Chapter 894, Oregon Laws 1981 as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991. This applies only to loans which:

(a) Are made to dwelling owners who are or who rent to residential fuel oil customers or wood heating residents and who:

(A) Have received an energy audit completed pursuant to these rules; and

(B) Give the lender a copy of:

(i) The results of the energy audit;

(ii) Certification on a form supplied by the Energy Office stating that the dwelling receives space heating from fuel oil or wood; and

(iii) For a furnace or burner replacement, a certification from the contractor on a form supplied by the Energy Office that the heating system meets or exceeds the combustion efficiency standards set in these rules.

(iv) Written permission on a form supplied by and submitted to the Energy Office to inspect.

(b) Are subject to an annual rate not to exceed 6.5 percent;

(c) Have a term of ten years or less; and

(d) Finance those measures recommended in the energy audit.

(5) Lenders making weatherization loans under Section 28, Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall:

(a) Keep a copy of the customer’s energy audit and the certification that the heating system meets or exceeds the combustion efficiency standards set in these rules, as well as the customer’s loan application;

(b) Help the customer fill in a form, given to the customer during the energy audit, stating what measures will be included in the loan; and

(c) Return that form and the heating system certification to the Energy Office no later than one week after the loan is closed. (This is the lender’s only reporting requirement to the Energy Office.)

(6) Eligibility of the lender for any tax credit under Section 28, Chapter 894, Oregon Laws 1981, as amended by Chapter 749, Oregon Laws 1987, and Chapter 718, Oregon Laws 1991, shall not be affected by any dwelling owner’s failure to use the loan for qualifying measures.

(7) The borrower must complete installation of the measures financed within 90 days of receiving the loan funds.

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469.170

Hist.: DOE 10(Temp), f. & ef. 9-16-77; DOE 1-1978, f. & ef. 1-16-78; DOE 8-1979, f. & ef. 11-27-79; DOE 13-1980, f. 12-15-80, ef. 1-1-81; DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0060

Oil Audit Standards: General Description of Oil-Heated Dwellings Energy Audit

(1) The energy audit shall be performed on-site by the auditor. The energy audit shall be based on actual measurements or inspections of the dwelling.

(2) The energy audit shall also provide information published by the Energy Office about no-cost/low-cost energy-saving practices, about energy conservation measures, and financial incentives available to help pay for the costs of installing those measures.

(3) The Administrator may approve the use of other audit methodologies, including allowing customers or trade allies to use a form developed by the Energy Office, if the Administrator determines that such alternate methodologies will provide the customer with results comparable to those achieved using the audit methodology prescribed by these rules.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0065

Oil Audit Standards: Conduct of the Energy Audit

(1) General Procedure:

(a) Arrival. The auditor shall present credentials to the customer, and briefly explain energy audit procedures;

(b) Interview. The auditor shall interview the customer before the walk-through energy audit to gather background information for the audit, including any specific customer interests or questions.

(c) Walk-through energy audit. The auditor shall encourage the customer to go with him or her during at least part of the energy audit. The auditor shall point out how the dwelling could be improved (plugging leaks, etc.), and other low-cost and no cost actions. The auditor shall complete the measurements and inspections necessary to perform the energy audit report.

(d) Results. The auditor shall determine which energy conservation measures might be installed and explain to the customer the results and recommendations. The auditor shall complete the audit report form supplied by the Energy Office to describe recommended energy conservation measures. The form and supporting information supplied by the Energy Office may explain the next steps the customer should take, that the customer must give the Energy Office permission to inspect the job if the customer uses a cash payment or loan and that the customer may use the statewide energy audit program toll-free number for any questions or complaints about the energy audit.

(2) Applicability. The auditor shall decide which energy conservation measures apply to the dwelling based on the standards set forth in these rules and the energy conservation measure specifications and customer interest. A measure may be recommended if the measure is not a violation of federal, state, or local law or regulation, there are no structural constraints precluding installation of the measure, and the measure meets the standards set forth in the rules and the energy conservation measure specifications.

(3) Observations and Measurements: The auditor shall inspect the dwelling to determine if applicable energy conservation measures meet the standards set by these rules and the specifications or whether additional measures should be recommended.

(4) Solar Assessment. The auditor may provide the customer with information supplied by the Energy Office about solar space and water heating, including information about the state Residential Alternative Energy Tax Credit.

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 6-1988, f. 12-21-88, cert. ef. 1-16-89; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0070

Oil Audit Standards: Calculation Procedures

(1) The energy savings from energy conservation measures shall be calculated by the Energy Office.

(2) The Energy Office may approve use of alternate energy savings calculations, if the calculations and the methodology supporting those calculations are submitted to the Energy Office for its review and approval.

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0075

Oil Audit Standards: Calculation of Cost Effectiveness

(1) The cost-effectiveness of energy conservation measures shall be calculated by the Energy Office.

(2) The Energy Office may approve use of alternate cost-effectiveness calculations, if the calculations and the methodology supporting those calculations are submitted to the Energy Office for its review and approval.

(3) The measure is “cost-effective” if its cost is less than 110 percent of the present value of the cost of fuel oil saved over its assumed life cycle.

(4) The Energy Office must approve all measures that are presumed to be cost-effective. These measures may include items which alone may not save energy but are needed to make recommended energy measures work effectively.

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

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 3-1987, f. & ef. 12-18-87; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

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330-060-0090

Oil Audit Standards: Auditor Qualifications

The person performing the energy audit must be able to determine whether the applicable energy conservation measures meet the standards set forth in these rules and the specifications and to be able to effectively communicate recommendations to the customer.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-060-0095

Post-Installation Inspections

(1) The Energy Office may inspect energy conservation measures:
(a) The Energy Office may inspect energy conservation measures installed by customers receiving a cash payment or loan for those measures;
(b) The Energy Office may inspect installed measures at the customer's request if those measures qualify for a cash payment or loan;
(c) The Energy Office may require an inspection at the time of the audit if any energy conservation measures qualifying for the cash payment or loan were installed before the audit is completed.
(d) The Energy Office may require an inspection before disbursing cash payments.

(2) The inspection shall verify that:

(a) Measures included in the loan or other incentive were installed; and

(b) Workmanship and materials meet industry standards. Installation standards and inspection forms shall be approved by the Energy Office. All measures installed shall meet the energy conservation measure specifications. Local codes shall prevail in all cases.

(3) The results of the inspection shall be promptly reported to:

(a) The customer; and

(b) The Energy Office.

(4) Inspectors shall have no financial or other interest in the firm that installed the measure(s) inspected.

(5) An inspector shall be a qualified auditor.

Stat. Auth.: ORS 469

Stats. Implemented: ORS 469.675

Hist.: DOE 7-1981, f. & ef. 12-18-81; DOE 4-1983, f. & ef. 10-10-83; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0005

Purpose

(1) OAR 330-061-0005 through 330-061-0050 prescribe how the Energy Office shall run a program providing energy conservation measure rebates. This program shall be known as the energy conservation measure rebate, a part of the State Home Oil Weatherization Program, run by the Energy Office. Operation of the oil energy conservation measure rebate depends on availability of funds.

(2) These rules are effective October 1, 2003 or upon filing with the Secretary of State, whichever is later and shall apply to energy conservation measure rebate applications postmarked on or after the effective date of these rules.

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0010

Definitions

As used in OAR 330-061-0005 through 330-061-0050, unless the context requires otherwise:

(1) "Administrator" – The Administrator of the Energy Office.

(2) "AFUE" – Annual fuel utilization efficiency, as determined by the Gas Appliance and Manufacturers Association.

(3) "Annual Income" – The total expected gross income of a family from all sources for the 12-month period after applying to the Energy Office. The method used to figure the annual income shall be set by the Energy Office.

(4) "Applicant" – Any person applying for a rebate.

(5) "Community Action Agency" – An agency designated to receive federal low income weatherization funds on behalf of low income clients.

(6) "Contractor" – A person receiving payment for installing an energy conservation measure. If installation is performed by a subcontractor, then the subcontractor may fulfill requirements such as the warranty requirements.

(7) "Cost-Effective" has the meaning given in OAR 330-060-0010(8).

(8) " Dwelling" has the meaning given in OAR 330-060-0010(11).

(9) "Energy Audit" has the meaning given in OAR 330-060-0010(13).

(10) "Energy Conservation Measures" has the meaning given in OAR 330-060-0010(14).

(11) "Family" – All persons living together in a dwelling unit.

(12) "Fuel Oil" has the meaning given in OAR 330-060-0010(18).

(13) "Improvement Costs":

(a) The actual costs of an energy conservation measure;

(b) Any incidental cost necessary to ensure the quality of the energy conservation measure (for example, providing adequate ventilation in connection with attic insulation), but not including the cost of repairs; and

(c) If installed by contractor, the actual costs to the recipient;

(d) "Improvement costs" – Does not include the applicant's own labor.

(14) "Energy Office" – The Office of Energy, of the State of Oregon.

(15) "Lighting System Improvements" has the meaning given in OAR 330-060-0010(21).

(16) "Person" – An individual, corporation, partnership, joint venture or other entity.

(17) "Rebate" – A cash grant for energy conservation measures.

(18) "Recipient" – A person receiving a rebate under the energy conservation measure rebate program.

(19) "Space Heating" has the meaning given in OAR 330-060-0010(23).

(20) "Tenant" has the meaning given in OAR 330-060-0010(25).

(21) "Wood Heating Resident" has the meaning given in OAR 330-060-0010(28).

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1986, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 3-1988, f. & cert. ef. 5-24-89; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0015

Description of Oil Weatherization Rebate Program

The Energy Office offers rebates for cost-effective energy conservation measures. The rebates are subject to available funding on a first-come, first-served basis.

Stat. Auth.: ORS 469.040 & ORS 469.165

Stats. Implemented: ORS 469

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0020

Eligible Recipients

(1) An owner of, or tenant in, a dwelling who purchases and installs energy conservation measures in such building shall be eligible to receive a rebate. All buildings must be heated by fuel oil or wood as the primary source of space heat.

(2) Assistance on behalf of others. A third person may receive a rebate on behalf of any owner or tenant who would be eligible to receive a rebate, if such owner or tenant consents to the arrangement in writing. The third person shall comply with all requirements which would apply to the owner or tenant if he or she had received the rebate. The third person may receive the rebate in the form of a single grant in an amount equal to the sum of such grants which each owner or tenant could have received.

(3) Assistance through Community Action Agencies. Community Action Agencies may apply for a rebate on behalf of applicants who meet income guidelines for the U.S. Department of Energy's Low Income Weatherization Program.

(4) In the case of a commercial building which has some residential living space, the following can qualify for a rebate:

(a) That part of the building used exclusively for residential; and

(b) In a centrally heated building, a prorated share of the cost of a heating system upgrade. This share shall be based on the percentage of residential to total square footage served by the heating system.

EXAMPLE: 1,000 square feet is commercial, 2,000 square feet is residential – 2/3 of the cost could qualify for the rebate.

(5) Relationship to low-interest loan. An applicant may apply for a 6.5 percent weatherization loan under ORS 469.715 to cover that part of the weatherization job not paid for by the rebate. However, an applicant may not receive a 6.5 percent loan for the full amount of the weatherization job and a rebate for measures covered by the loan. If a loan is received for the full amount of the weatherization job, the rebate must be used to pay down the loan balance.

(6) Relationship to other publicly-subsidized loans. An applicant may apply for any other local, state or federal low-interest loan to cover costs of

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energy conservation measures not paid for by the rebate. However, an applicant may not receive a publicly-subsidized low-interest loan for energy conservation measure costs paid for by the rebate.

Stat. Auth.: ORS 469.040 & ORS 469.165
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0025

Amount of Rebate

(1) The Energy Office shall annually allocate available rebate funding based on the following income categories and in the following dollar and percentage amounts:

(a) Households at or below eligibility levels for the U.S. Department of Energy's Low Income Weatherization Program may receive from a Community Action Agency administering the rebate program on behalf of the Energy Office a cash rebate for installing qualifying energy conservation measures, subject to the following limitations:

(A) A rebate for a fuel oil furnace or burner shall not exceed the lesser of 50% of the costs or \$150.

(B) A rebate for for storm windows, storm doors, double pane windows, or double pane sliding doors shall not exceed the lesser of 50% of the costs or \$150.

(C) A rebate for insulated doors shall not exceed the lesser of 50% of the costs or \$150.

(D) A rebate for a blower-door test performed by a contractor certified by the Energy Office to assess the potential energy efficiency and other benefits from whole house air sealing and duct sealing shall not exceed the lesser of 100% of the costs or \$100.

(E) The rebate for all other energy conservation measures shall not exceed the lesser of 50% of the costs or \$1,000.

(F) The total rebate received by a household for energy conservation measures subject to these rules shall not exceed \$1,000.

(b) Any household may receive a cash rebate for installing qualifying energy conservation measures, subject to the following limitations:

(A) A rebate for a fuel oil furnace or burner shall not exceed the lesser of 25% of the costs or \$150.

(B) A rebate for storm windows, storm doors, double pane windows, or double pane sliding doors shall not exceed the lesser of 25% of the costs or \$150.

(C) A rebate for insulated doors shall not exceed the lesser of 25% of the costs or \$150.

(D) A rebate for a blower-door test performed by a contractor certified by the Energy Office to assess the potential energy efficiency and other benefits from whole house air sealing and duct sealing shall not exceed the lesser of 100% of the costs or \$100.

(E) The rebate for all other energy conservation measures shall not exceed the lesser of 25% of the costs or \$500.

(F) The total rebate received by a household for energy conservation measures subject to these rules shall not exceed \$500.

(2) The Energy Office may allocate additional funding for a pilot program to be used in lieu of a rebate to write-down the interest rate of a loan issued through or administered by a public agency to finance installation of qualifying energy conservation measures. The cost of the interest write-down may not exceed the rebate for which the household would otherwise have qualified.

(3) In some cases, a landlord may not wish to install energy conservation measures in all units within a building. To determine the building type, all dwelling units in the building must be counted. The rebate is only available for those units where energy conservation measures have been installed. All dwelling units sharing a common space conditioning system shall be considered part of the same residential building.

Stat. Auth.: ORS 469.040 & ORS 469.165
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0030

Application Procedure

(1) Energy audit required prior to rebate payment:

(a) An applicant for a rebate must submit to the Energy Office a copy of an energy audit for the building or dwelling unit for which a rebate is requested before the rebate is provided;

(b) A rebate will only be provided for energy conservation measures listed in OAR 330-061-0010(10), subject to the limitations of OAR 330-061-0015 and 330-061-0025.

(2) Applicant certification. The applicant shall certify to the Energy Office that the applicant heats with fuel oil or wood, the application is for costs of qualifying energy conservation measures, the applicant will grant permission for an inspection of the installed measures within a reasonable time if requested by the Energy Office, and the applicant understands that the installed measures must comply with the program's energy conservation measure specifications and if the measures do not comply that the installation must be remedied or the rebate repaid.

(3) A tenant must get prior written consent from the owner of the building or dwelling unit to be eligible to apply for a rebate for the installation of energy conservation measures.

(4) A third party applying for assistance on behalf of any owner or tenant who would be eligible to receive a rebate must get written consent from the owner or tenant before receiving a rebate on the owner's or tenant's behalf.

(5) Contractor requirements:

(a) All contractors who install energy conservation measures receiving a rebate must be registered with the Oregon Construction Contractors Board. This requirement shall not apply to community action agencies acting as contractors;

(b) Contractors shall certify if requested by the Energy Office that neither they nor their suppliers (if any) are on the Consolidated List of debarred, suspended, and ineligible contractors prepared by the General Services Administration pursuant to the temporary rule published at 47 FR 43692 and any successor rule;

(c) Contractors shall certify that a new flame retention burner or fuel oil furnace for which a rebate is requested meets or exceeds the required steady state efficiency;

(d) Warranties:

(A) Basic Requirement:

(i) The contractor for the installation of energy conservation measures shall, in connection with such measures, warrant in writing that the recipient shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, design or installation) at a minimum be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts, materials or installation;

(ii) Any replacement parts or materials must be provided at the site of installation without charge for transportation and must be installed without charge by the contractor.

(B) Other law. This section shall not relieve a warrantor under this section from full compliance with federal and state laws applicable to warranties, except to the extent that such law is inconsistent with the requirements of this section.

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

Stat. Auth.: ORS 469.040 & ORS 469.165
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0035

Payment of Rebate

After receipt of all documents and certificates required by OAR 330-061-0030, the Energy Office shall issue a two-party check in the allowable rebate amount to the applicant and the applicant's designated contractor or supplier. The Energy Office may also, at its discretion, issue a two-party check to the applicant and another person (such as a landlord, Community Action Agency, or lending institution). If no contractor or supplier is involved, or if the applicant has receipts showing that the contractor has been paid in full, the Energy Office may issue a single-party check to the applicant. The Energy Office may also, at its discretion, issue a single-party check to the contractor. The Energy Office may issue checks to Community Action Agencies administering the rebate program on behalf of the Energy Office.

Stat. Auth.: ORS 469.040 & ORS 469.165
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0040

Post-Installation Inspections

The Energy Office may conduct post-installation inspections as provided in OAR 330-060-0095.

Stat. Auth.: ORS 469.040 & ORS 469.165

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Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0045

Penalties and Remedies

(1) Any person who knowingly makes any false statement or misrepresents any material fact with respect to any rebate provided by the Energy Office is subject under state law ORS 162.085 to a fine of not more than \$1,000, or imprisonment for not more than six months, or both, for each offense. Each false statement, material misrepresentation or failure to make a required disclosure or statement shall be a separate offense.

(2) Refusal by a rebate recipient to allow an inspection previously authorized in writing by the recipient, upon reasonable request by the Energy Office and at a reasonable time shall constitute grounds for the Energy Office to recover the full rebate amount from the recipient.

(3) Penalties in these sections are not exclusive. The penalties provided for in sections (1) and (2) of this rule shall be in addition to any civil or criminal fines or penalties applicable under law, including any applicable provisions of federal, state or local law.

Stat. Auth.: ORS 469
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

330-061-0050

Retention of Records by Recipients

Recipients shall retain all records pertaining to the rebate application and the energy conservation measures for which the rebate was for a period of three years after the financial assistance is provided.

Stat. Auth.: ORS 469
Stats. Implemented: ORS 469
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03

Oregon Economic and Community Development Department Chapter 123

Adm. Order No.: EDD 8-2003(Temp)

Filed with Sec. of State: 9-24-2003

Certified to be Effective: 9-24-03 thru 3-22-04

Notice Publication Date:

Rules Amended: 123-043-0035, 123-043-0045, 123-043-0055, 123-043-0075

Subject: The administrative rule for the Water Fund is being revised to describe the maximum amount of grant funds that can be awarded under the program and the requirements for the qualifying for various grant amounts from the program.

Rules Coordinator: Steven Santos—(503) 986-0102

123-043-0035

Criteria and Limitations for Funding – Non-Technical Assistance Projects

(1) The intent of the Legislature was to provide funding to municipalities to assist in compliance with the **Safe Drinking Water Act** and the **Clean Water Act**. Therefore, priority is given to projects necessary to ensure that municipal water and wastewater systems comply with the requirements of:

(a) Current drinking water quality standards administered by the Oregon Public Health Services Drinking Water Program; or

(b) Water quality statutes, rules, orders, or permits administered by the Oregon Department of Environmental Quality (DEQ) or the Environmental Quality Commission.

(2) In cases where a municipal water or wastewater system has not been issued a Notice of Non-Compliance with the **Safe Drinking Water Act** or the **Clean Water Act**, the Department may determine that a proposed project is eligible for assistance upon a finding that the following have been met:

(a) A recent letter from the appropriate regulatory authority, typically the Department of Human Services Drinking Water Program Health Services, the Department of Environmental Quality, or their contracted agent, which indicates a high probability that the system owner will soon be notified of non-compliance with either the **Safe Drinking Water Act** or the **Clean Water Act**; or

(b) The Department staff deems it reasonable and prudent that program funding will assist in bringing the drinking water or wastewater sys-

tem into compliance with the requirements of the **Safe Drinking Water Act**, the **Clean Water Act**, or those requirements proposed to take effect within the next two years.

(3) The Department generally will not award funds to applications for wastewater treatment facilities if the facilities will discharge into water quality limited streams for which the Department of Environmental Quality has not yet established Total Maximum Daily Loads (TMDLs). Consultation with the Department of Environmental Quality will be required to determine if the project can be designed and constructed without establishment of Total Maximum Daily Loads. Water quality limited streams are designated by the Oregon Environmental Quality Commission.

(4) The project must be consistent with the acknowledged local comprehensive plan.

(5) The Department encourages elimination of redundant systems (rationalization) whenever feasible.

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

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 – ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

123-043-0045

Criteria and Limitations for Funding – Technical Assistance Projects

(1) Technical Assistance awards are available to municipalities of under 5000 population for Technical Assistance planning activities in preparation for a project that is eligible under these rules.

(2) Technical Assistance grants and loans are subject to the following limitations.

(a) Grants up to \$10,000, may be awarded per project.

(b) Loans up to \$20,000 may be awarded per project. Interest shall be at 75 percent of the rate for other Direct Loans consistent with these rules. The Loan term shall not exceed seven years.

(c) No more than \$400,000, or one percent of the value of the Fund, whichever is less, shall be expended from the Fund on Technical Assistance in any biennium. When awarding grants under this rule the Department will not first consider a municipalities' ability to repay a Loan.

(d) The application must meet the requirements listed in 123-043-0075(2).

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

Stat. Auth.: ORS 285B.563

Stats. Implemented: ORS 285B.560 – ORS 285B.599

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

123-043-0055

Loan and Grant Information

(1) The Department will award financing in a manner that maximizes the use of available resources and maintains the desired credit standards. The Department shall determine the amount, type, interest rate and terms; it may offer an alternate mix or lower amount of assistance than requested. The amount of the award must be the minimum amount necessary to enable the project to proceed; and it may investigate and recommend other sources of funds for all or part of a proposed Project. Projects that are not financially feasible shall not be funded.

(2) If the Project includes a recoverable asset, the Department may require that upon sale of such asset by the Recipient, the grant award or the percentage of total project costs paid with a grant award, whichever is less, shall be repaid to the Fund or be retained by the Recipient in a special fund.

(3) The Department may expend moneys from the Fund for the payment of all costs associated with the issuance of a State Revenue Bond. The Department, in cooperation with the State Treasurer, may issue State Revenue Bonds to fund qualifying Projects in accordance with the limitation on state revenue bond issuance established by the Legislature. The Department may expend moneys from the Fund to establish a debt service reserve to support the credit pledge of a Recipient.

(4) Grants: For non-Technical Assistance Projects the Department shall consider awarding a Grant only after an analysis determines the Applicant's borrowing capacity is insufficient to finance the project and the projected annual residential rate for the system is at least equivalent to a minimum rate as determined by Department policy. The policy shall incorporate the most recent U.S. Census data on median household income and annual adjustments for inflation since the most recent census. A maximum of \$10,000 per hookup per project, inclusive of all Department programs, shall be awarded as grant, subject to the following limitations. Applicants that meet these thresholds shall be eligible for grant awards as follows:

(a) If the median annual household income of the applicant is equal to or less than 70% of the state average median annual household income for the same year: Eligible for a grant up to \$750,000.

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(b) If the median annual household income of the applicant is greater than 70% but less than or equal to 80% of the state average median annual household income for the same year: Eligible for a grant up to \$500,000.

(c) If the median annual household income of the applicant is greater than 80% but less than 100% of the state average median annual household income for the same year: Eligible for a grant up to \$250,000.

(d) If the median annual household income of the applicant is equal to or greater than 100% of the state average median annual household income for the same year: Not eligible for a grant.

(5) For Technical Assistance Projects, the Department will consider awarding a Grant without first considering a Loan.

(6) Non cash Grants in the form of Issuance Costs and a Debt Service Reserve for bond bank funded projects may be paid with available and unobligated balances of the Fund.

(7) Loans: Projects are eligible for loans of up to \$11,000,000 per project through a combination of direct and/or bond funded loans. The maximum direct loan is \$1,000,000 per project. The term of a construction loan is typically 20 years but is limited to the usable life of the infrastructure financed, or 25 years, whichever is less. Interest rates of Direct Loans are based on market conditions for similar debt and are set at the time of the award.

(8) For Bond Funded Loans, the Department will pass through the final interest rate of the bond to the borrower. Until a bond is sold, the borrower will pay interest on loan funds drawn down, at the direct loan rate, as set by the Department.

(9) The Loan shall be payable from the general fund and any allowable enterprise funds of the borrower and shall be a full faith and credit obligation which is payable from any taxes which the borrower may levy within the limitations of Article XI of the Oregon Constitution.

Stat. Auth.: ORS 285B.563
Stats. Implemented: ORS 285B.560 – ORS 285B.599
Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

123-043-0075

Application Review and Approval

(1) To award assistance from the fund for construction projects the Department must make the determinations as follows:

(a) The proposed project is feasible, is the most cost effective solution, and adequately serves the applicable land uses in both the short and long term.

(b) The loan security includes the pledge of utility revenues and/or other revenue funds or payments from any owners of specially benefited properties, and are sufficient, when considered with other security, to assure repayment and the municipality has certified to the Department that there will be adequate funds available to repay any loans made to the municipality from the Fund;

(c) The municipality will require the installation of meters on all new service connections to any distribution lines that may be included in the project.

(d) The municipality will adopt a plan for installation of meters on all service connections throughout the drinking water system not later than two years after the completion of a drinking water project;

(e) Moneys in the appropriate accounts of the Fund are or will be available for the project;

(g) The municipality is willing and able to enter into a contract with the Department for repayment as provided in this chapter of administrative rules;

(h) The project is consistent with the requirements governing assistance from the Fund. If the Department determines that the applicant and/or the proposed project do not meet the requirements of this rule, the Department may reject an application or require further documentation from the applicant; and

(i) Other funds that may be needed to complete the project are available and committed to the project. If a portion of the other funds needed to complete the project is not available at the time an award is made, the award shall be conditional on securing the other needed funds.

(2) To award assistance from the fund for Technical Assistance projects the Department must make the determinations as follows:

(a) The Technical Assistance planning activities must be in preparation for a Project that is eligible under OAR chapter 123-043 and meets the criteria listed in 123-043-0045.

(b) The Applicant has, or has demonstrated the ability to secure, the administrative capacity to undertake and complete the Technical Assistance project.

(c) The Technical Assistance project is ready to proceed upon execution of a contract between the Department and the Applicant.

Stat. Auth.: ORS 285B.563
Stats. Implemented: ORS 285B.560 – ORS 285B.599
Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04

Adm. Order No.: EDD 9-2003(Temp)

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

Certified to be Effective: 11-26-03 thru 5-21-04

Notice Publication Date:

Rules Adopted: 123-065-1901, 123-065-8001, 123-065-8101, 123-065-8201, 123-065-8301, 123-065-8401

Subject: These rules provide essential guidance for cities or counties to create and use Rural Renewable Energy Development Zones, for the enterprise zone tax incentive inherent therein, to achieve the self-evident purpose of these zones.

Rules Coordinator: Steven Santos—(503) 986-0102

123-065-1901

Notice to Local Taxing Districts

Consistent with OAR 120-065-0330(4), 123-065-1530(5), 123-065-1720(1) and 123-065-8201(1), a proposed designation or change in an enterprise zone boundary as described in this division of administrative rules shall entail prior notice to local taxing districts, as follows:

(1) The designation applicant or zone sponsor must send the notice to each taxing district, including but not limited to municipal corporations or service districts listed under ORS 198.010 and 198.180, that would be newly affected, because the proposed zone designation or boundary change contains a tax code area, from which the taxing district receives operating revenue through ad valorem taxes levied on real and personal property therein, with the following exceptions:

(a) A city or county government applying for or sponsoring the zone; or

(b) A service district, urban renewal district or the like entirely within or commensurate to such a city or county jurisdiction and with a governing body equivalent to that of the city or county.

(2) The zone applicant or sponsor must furnish the Department with the following as part of the application or boundary change request:

(a) A list of contact names and mailing addresses for all applicable taxing districts;

(b) A copy of the notification directed at such taxing districts; and

(c) A statement signed by the authorized preparer of the application or request attesting that the notification was sent by regular mail to each listed district on a specified date, at least 21 calendar days before:

(A) The adoption of the requisite resolution by the governing body of the applicant/sponsoring county; or

(B) In the absence of a county applicant/sponsor, then before the adoption of a requisite resolution by any applicant/sponsoring city.

(3) The notification shall do all of the following:

(a) Describe the probable schedule for consideration of city/county resolutions to request the designation or boundary change;

(b) Explain the limited-duration exemption(s) from property taxes available on certain property of potential investments by particular business types;

(c) Invite comments on the proposed zone or boundary change, to be directed at some or all of the applicant or sponsoring city/county governments; and

(d) Present contact details for submitting such comments or for receiving further information.

(4) The applicant/zone sponsor shall submit copies of all written comments in response to the notification, from any relevant taxing district, to the Department no later than 30 calendar days following receipt of the comments (or any specified application deadline), and if possible, before the Director orders the designation or boundary change.

(5) The zone sponsor shall give due consideration to any comment received in relationship to this rule.

(6) A taxing district's objection or lack of support for the proposed zone designation or boundary change does not constitute or allow any effective exclusion or alteration of relevant exemptions on taxable property, as is provided by law for other types of programs involving comparable exemptions.

(7) Failure to materially perform any task stipulated by this rule may result in the Department rescinding and reversing a relevant order of designation or boundary change, including termination of the enterprise (or rural

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renewable energy development) zone, consistent with ORS 285B.686(6) (2001).

(8) The tasks stipulated in this rule are in no way intended to discourage or replace other local efforts and actions to provide/ elicit public information, commentary or involvement, as circumstantially appropriate or required by local law, policy, custom or practice.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1), ORS 285B.656(4), ORS 285B.659(1), ORS 285B.668(1), ORS 285B.677(5), ORS 285B.680(1)(d) & (5) & ORS 285B.689(4) (2001); OL2003 Ch662 §75
Stats. Implemented: ORS 285B.656, ORS 285B.677 & ORS 285B.680 (2001); OL2003 Ch662 §70
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

123-065-8001

Purpose and Scope

OAR 123-065-8000 to 123-065-8999 specify matters related to the creation and operation of an “RREDZ,” which as used in these administrative rules means a rural renewable energy development zone under OL2003 Ch662 §§69-75, such that:

(1) For an eligible business firm in an RREDZ, the short-term enterprise zone exemption and associated requirements under ORS 285B.650 to 285B.728 apply essentially as they do inside an enterprise zone, except:

(a) That the firm and the firm’s property qualify only insofar as they relate to facilities and activities that generate electricity from a “renewable energy resource” under ORS 469.185(9), including but not limited to the support or maintenance of relevant facilities; and

(b) As described in OAR 123-065-8301 and 123-065-8401.

(2) A primary purpose of RREDZs is the extension of this enterprise zone incentive to renewable energy projects, which may be far-flung or widely dispersed, in lieu of what might often involve an infeasible or physically complex amendment to the boundary of an existing enterprise zone.

(3) These administrative rules:

(a) Have no bearing on true enterprise zones, including but not limited to an enterprise zone or an eligible business firm or qualified property in an enterprise zone encompassed by an RREDZ;

(b) Do not necessarily control the fiscal parameters for the actual implementation of tax abatements by the county assessor or Department of Revenue; and

(c) Are not intended to supersede any applicable administrative rule in OAR chapter 150.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1) (2001); OL2003 Ch662 §75
Stats. Implemented: OL2003 Ch662 §§69-75
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

123-065-8101

Basic Points About RREDZs

(1) An RREDZ does not terminate by operation of law after any minimum length of time

(2) An RREDZ covers the entire territory of the designated:

(a) City including subsequent annexations; or

(b) County or counties whether outside corporate limits or not.

(3) An RREDZ is permitted anywhere in this state, except in one of the counties listed in OAR 123-065-0090(4).

(4) RREDZs come in one of only the following three types:

(a) City RREDZ, in that a single city’s governing body applied to the Department for designation, and the city is the sponsor of the RREDZ;

(b) County RREDZ, in that a single county’s governing body applied to the Department for designation, and the county is the sponsor of the RREDZ; or

(c) Multi-county RREDZ, in that each governing body of two or more counties jointly applied to the Department for designation, such that:

(A) The counties are contiguous one to another, but do not necessarily all share a single common border in the case of three or more counties; and

(B) Only one of the counties serves as the zone sponsor.

(5) In appointing the local RREDZ manager, the sponsor is encouraged to select someone, who also serves as local zone manager for an enterprise zone, whenever possible.

(6) There is no particular limit on the number of RREDZs statewide, although a city or county may not have two or more concurrent designations, with the following distinctions:

(a) A city may have a designation, even if inside a county designated as an RREDZ; or

(b) A county may itself be designated an RREDZ and be part of an RREDZ with one or more other counties, but it may not belong to two or more different, multi-county RREDZs.

(7) A particular RREDZ exemption on the qualified property of a qualified business firm may not be derived from more than one overlapping RREDZ designation, pursuant to a single authorization (currently precertification).

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1) (2001); OL2003 Ch662 §75
Stats. Implemented: OL2003 Ch662 §§69-75
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

123-065-8201

Designation of an RREDZ

(1) To apply for designation of an RREDZ under OL2003 Ch662 §70, the city, county or multiple counties shall furnish the Department with the following:

(a) Copy of the resolution(s) requesting designation, as duly adopted by each jurisdiction within the past 90 days;

(b) The documentation as stipulated in OAR 123-065-1901; and

(c) A formal statement that specifies the following:

(A) The jurisdiction(s) to be so designated, and in the case of a multi-county RREDZ, the county that would act as the sponsor; and

(B) Current status of any previous RREDZ designation in the jurisdiction(s), including but not limited to the unused portion of the \$100-million exemption limitation under OL2003 Ch662 §70(4).

(2) Subject to the accuracy and completeness of the materials provided under section (1) of this rule and any other information as the Department may request, as well as adherence to applicable laws and these administrative rules:

(a) The designation shall be approved by the Director; and

(b) The date of designation may be made effective as early as when the Department received a complete application, if so requested by the applicant.

(3) Termination of an RREDZ may occur in accordance with ORS 285B.686(5) or (6) (2001), subject to equivalent protection and allowances for any authorized or qualified business firm in the RREDZ at that time, as would be the case for an enterprise zone, such that:

(a) For a multi-county RREDZ all counties must adopt a resolution seeking termination under ORS 285B.686(5) (2001), not only the sponsor; and

(b) An RREDZ may not later be redesignated if it corresponds to the one so terminated.

(4) If the application is for a subsequent additional designation corresponding to an existing RREDZ, then upon designation, the existing RREDZ automatically terminates, and any authorized business firm in that RREDZ is transferred to the newly designated RREDZ for purposes of future qualification, beginning with the next property tax year after the effective date of designation.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1) (2001); OL2003 Ch662 §75
Stats. Implemented: OL2003 Ch662 §§69-75
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

123-065-8301

Limitation of \$100-million in Real Market Value

Under OL2003 Ch662 §70(4), each RREDZ designation is authorized for cumulative exemptions on qualified property of not more than \$100 million of value over the life of the RREDZ, such that:

(1) Value is measured by the property’s real market value (RMV) as assessed on January 1 of the first year, for which the exemption is claimed by an authorized business firm in that RREDZ.

(2) The sponsor shall coordinate with the county assessor to track the amount of this limitation that has been used by former/ongoing exemptions and the unused portion thereof. (If affected property is later disqualified and property taxes paid back, then the associated RMV is added back to the unused portion for future use)

(3) If the \$100 million is exhausted in a single year by new qualified property first subject to exemption in that year, then the exemption or exemptions shall be granted only up to the point, at which the property’s RMV equals the unused portion, such that in the case of two or more qualified firms the unused portion shall be pro-rated among them commensurate with the total value of each one’s relevant property.

(4) In anticipation of such exhaustion, the sponsor of the RREDZ may seek and receive a subsequent additional designation before the beginning of the property tax year, in order to authorize a new \$100 million, consistent with OAR 123-065-8201(4).

(5) In a situation as described in section (4) of this rule, however, the unused portion of the previous RREDZ may not be added to the new \$100

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million, and consequently no more than a \$100 million in real market value may be initially exempt in a single year with respect to any one RREDZ.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1) (2001); OL2003 Ch662 §75
Stats. Implemented: OL2003 Ch662 §§69-75
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

123-065-8401

Further Distinctions from an Enterprise Zone Exemption

Other differences for an RREDZ exemption in contrast to the provisions of ORS 285B.650 to 285B.728 include (but are not necessarily limited to) the following:

(1) The application for authorization (currently precertification) must give special attention to characterizing the proposed investment in qualified property, clarifying how it relates to renewable energy, and estimating its real market value by January 1 of the first full calendar year of operations.

(2) To be exempt, the qualified property must essentially correspond to what is described in the application (comparable to a headquarter-type facility under ORS 285B.707(7) (2001)).

(3) For purposes of an additional one or two years of exemption on qualified property (following the standard three-year period) inside a county that is a contiguous part of the RREDZ, but that is not the sponsor of the RREDZ:

(a) At least 21 calendar days before execution of the requisite written agreement between the sponsor and the eligible business firm (prior to authorization), the sponsor shall give the county's governing body formal notice of the potential extension to the tax abatement period; and

(b) If on or before the date, on which the written agreement is executed, the county's governing body adopts a resolution electing not to participate, then the extended abatement is disallowed for the proposed investment in qualified property.

Stat. Auth.: ORS 285A.075(5), ORS 285A.110(1) & ORS 285B.668(1) (2001); OL2003 Ch662 §75
Stats. Implemented: OL2003 Ch662 §§69-75
Hist.: EDD 9-2003(Temp), f. 10-06-03, cert. ef. 11-26-03 thru 5-21-04

Oregon Housing and Community Services Chapter 813

Adm. Order No.: OHCS 8-2003(Temp)

Filed with Sec. of State: 10-13-2003

Certified to be Effective: 10-13-03 thru 4-9-04

Notice Publication Date:

Rules Amended: 813-350-0030

Subject: The rule establishes the eligibility for guarantees under the General Guarantee Program. Amendments to the rule adjusts the guarantee limits to meet immediate programmatic needs.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-350-0030

Eligibility for Guarantees

(1) The Department may provide guarantees for the partial repayment of loans made by lenders to finance the construction, development, acquisition, and/or rehabilitation of, and/or for the partial repayment of leases made by sponsors or leasing companies to facilitate the equipping, development or operation of:

(a) Suitable housing for low and/or very-low income persons and households including, but not limited to, suitable housing for disabled persons, farmworkers, and suitable transitional housing for ex-offenders;

(b) The commercial component of a structure that contains both commercial property and suitable housing for low and/or very-low income individuals and households; or

(c) Both (a) and (b).

(2) The Department may not:

(a) Issue any loan guarantee under this Division that guarantees the repayment of more than 25 percent of any qualifying loan obligation;

(b) Issue any loan or lease guarantee under this Division equal to or in excess of \$100,000 without obtaining the prior approval of the Housing Council;

(c) Issue any single loan or lease guarantee under this Division in excess of \$1,000,000;

(d) Issue loan and lease guarantees under this Division in an aggregate outstanding amount in excess of \$4,000,000; and

(3) The Department may choose at any time not to maximize its loan and/or lease guarantee authority under this Division.

Stat. Auth.: ORS 183, ORS 456.555(2), ORS 456.625(12)(16)
Stats. Implemented: ORS 456.515 - ORS 456.725

Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03; OHCS 8-2003(Temp), f. & cert. ef. 10-13-03 thru 4-9-04

Oregon Liquor Control Commission Chapter 845

Adm. Order No.: OLCC 12-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 11-1-03

Notice Publication Date: 7-1-03

Rules Amended: 845-005-0415, 845-005-0422, 845-005-0423, 845-005-0427, 845-006-0390, 845-006-0395, 845-006-0396, 845-006-0398, 845-006-0430, 845-006-0433, 845-006-0434, 845-006-0450

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

Rules Coordinator: Katie Hilton—(503) 872-5004

845-005-0415

Special Event Winery and Special Event Grower Sales Licenses

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery license to a Winery licensee. The special license may allow the licensee to sell wine and cider at retail for consumption on or off the licensed premises at a location other than that designated as the winery's licensed premises for a period not to exceed five consecutive days.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower Sales license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell wine and cider at retail for consumption on or off the licensed premises at a location other than that designated as the grower's licensed premises for a period not to exceed five consecutive days.

(3) Any special license application shall be made in writing and include:

(a) A control plan for managing patronage by minors and alcohol consumption by adults;

(b) Identification of the individuals to be employed by the licensee to manage events applied for under this section;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, extent of expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) License fees as established by ORS 471.311.

(4) Applicants must apply in writing using the Commission form provided for this purpose. The Commission may reject any application not completed fully and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(5) The Commission may deny, cancel or restrict a special license for any reason for which the Commission may deny, cancel or restrict a regular license.

(6) Commission staff investigates non-routine applications for special licenses. Non-routine applications include those that propose electronically amplified entertainment, a drinking environment as defined in OAR 845-006-0340(8), an operation that staff concludes requires employment of security personnel, or that has not received an unqualified grant recommendation from the local governing body or its delegated department. Commission staff assesses each application to determine if it is routine or non-routine. Applications must be submitted enough in advance of the event date to allow staff assessment and investigation.

(a) The Commission may refuse to process any routine application not submitted at least five business days in advance of the proposed event date.

(b) The Commission may refuse to process any non-routine application not submitted at least fifteen business days prior to the proposed event date if the applicant will operate a drinking environment as defined by OAR 845-006-0340(8).

(c) The Commission may refuse to process any non-routine application not submitted at least twenty-five business days prior to the proposed

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event date if prior to the submission of the application Commission staff provide notice to the applicant or the applicant's representative that investigation of the application will require assessment of public safety or neighborhood impact matters, or the risk of disturbances or liquor law violations at the location proposed to be licensed.

(7) Submission of an application within the time lines stated in subsection (6) of this rule does not guarantee the Commission will have the resources to complete investigation of the application prior to the applications requested date(s).

(8) The Commission may refund the special license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

Stat. Auth.: ORS 471, including ORS 471.030, 471.040, & 471.730(1) & (5)
Stats. Implemented: ORS 471.223, ORS 471.730(5)
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0422

Next-Day Delivery of Package Alcohol; Wine and Cider Delivery by Winery Licensee

(1) ORS 471.305 restricts retail wine, cider, and malt beverage sales to the licensed premises. It allows deliveries within Oregon "made by the licensee to customers pursuant to bona fide orders received on the premises prior to delivery."

(2) The licensee's license must include off-premises sales privileges for malt beverages to deliver malt beverages, off-premises sales privileges for wine to deliver wine or cider.

(3) A Winery licensee is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale.

(4) Before making the first delivery, the licensee must notify the Commission on a Commission-supplied form that the licensee plans to provide this delivery service.

(5) The licensee may not deliver kegs without prior written approval for each delivery.

(6) As used in this rule, "made by the licensee" includes deliveries by the licensee's employee who holds a current Service Permit and by a common carrier who has a Commission-approved delivery plan. Common carrier delivery plans are assessed under the guidelines of OAR 845-005-0424.

(7) The licensee may make deliveries only in compliance with the requirements of OAR 845-006-0398.

Stat. Auth.: ORS Ch. 471, including 471.030, 471.305, and 471.730(1), (5), & (6)
Stats. Implemented: ORS 471.223 & ORS 471.305
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0423

Wine Shipment by Out-of-State Licensee

(1) A retailer or winery licensed in another state that wants to ship wine or cider to Oregon residents as ORS 471.229 allows must complete a Commission-supplied application for an Out-of-State Wine Shipper license. There is no fee for this license. The license is valid for five years and expires at 12 midnight on December 31 of the fifth year following issuance.

(2) An Out-of-State Wine Shipper licensee:

(a) Is authorized to ship not more than two cases of wine or cider containing not more than nine liters per case per month to any resident of this state who is at least 21 years of age, for personal use and not for resale;

(b) May accept written or telephone orders for wine or cider. The licensee must wait until the next day to ship a telephone order;

(c) May use only a common carrier that has a Commission-approved delivery plan. Requests for approval of common carrier delivery plans are evaluated under the guidelines of OAR 845-005-0424;

(d) Must prominently label each shipping container of any wine or cider shipped under this subsection: "Alcoholic Beverages – Do not deliver to a person who is under 21 years of age or visibly intoxicated."

(3) The Commission may cancel or suspend a wine shipper's license:

(a) If the delivery person delivers to a minor or a visibly intoxicated person or does not comply with subsection (2)(c) of this rule;

(b) If the licensee fails to comply with the requirements of ORS 471.229 and all other Oregon alcoholic beverage statutes and rules applicable to the sale of wine or cider in Oregon.

Stat. Auth.: ORS 471, including 471.030, ORS 471.229, 471.730(1), (5) & (6)
Stat. Implemented: ORS 471.229

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-005-0427

Retail On-Premises Malt Beverage or Wine Sampling Involving Manufacturer or Certificate of Approval Holder

(1) Certificate of Approval holders and Oregon Winery, Grower Sales Privilege, Brewery-Public House, Brewery, and Warehouse licensees may conduct or assist at tasting events at Full On-Premises Sales and Limited On-Premises Sales licensed premises, and at Off-Premises Sales licensed premises which sell petroleum products in compliance with OAR 845-006-0450, for the purpose of promoting their wine, cider, and malt beverage products to the public.

(2) Sample tasting events permitted under this rule:

(a) Do not require a special or temporary license;

(b) Must be conducted in compliance with OAR 845-006-0450.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0390

Transportation by Licensed Retailer from Licensed Wholesaler Premises

A licensed malt beverage or wine retailer may transport the malt beverages, cider, or wine the retailer purchases from a licensed wholesaler from the wholesaler's premises to the retailer's premises. The purchase price of such malt beverages, cider, or wine shall be the price listed pursuant to OAR 845-010-0210.

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

Stats. Implemented: ORS 471.305 & ORS 471.398

Hist.: LCC 40, f. 8-2-72, ef. 8-5-72; Renumbered from 845-010-0211; LCC 32-1980, f. 12-22-80, ef. 2-1-81; OLCC 7-1990, f. 3-16-90, cert. ef. 4-1-90; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-006-0090; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0395

Shipments of Alcoholic Beverages to Oregon Residents

(1) Definitions for purposes of this rule:

(a) "Alcoholic beverage" and "alcoholic liquor" mean any liquid or solid containing more than one-half of one percent alcohol by volume, and capable of being consumed by a human being;

(b) "Distilled liquor" means any alcoholic beverage other than cider, a wine or malt beverage. "Distilled liquor" includes distilled spirits;

(c) "Malt beverage" means an alcoholic beverage obtained by the fermentation of grain that contains not more than 14 percent alcohol by volume. "Malt beverage" includes beer, ale, porter, stout and similar alcoholic beverages containing not more than 14 percent alcohol by volume. "Malt beverage" does not include an alcoholic beverage obtained by fermentation of rice;

(d) To "ship" includes any one or more of the following acts: To import, transport, deliver and sell alcoholic beverages to any resident of this state;

(e) "Wine" means any wine containing not more than 21 percent alcohol by volume and produced in all respects in conformity with the laws of the United States and the regulations of the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury. "Wine" does not include cider;

(f) "Cider" means an alcoholic beverage made from the fermentation of the juice of apples or pears that contains not more than ten percent of alcohol by volume.

(2) Wine or cider may be shipped to Oregon residents from out-of-state wine shipper licensees pursuant to ORS 471.229 and OAR 845-005-0423. Wine or cider may be shipped to Oregon residents from in-state licensees pursuant to ORS 471.223, 471.229, OAR 845-005-0422 and 845-006-0398.

(3) Malt beverages may not be shipped to Oregon residents from out-of-state. Malt beverages may be shipped to Oregon residents from in-state licensees pursuant to OAR 845-005-0422 and 845-006-0398.

(4) Distilled liquor may not be shipped to Oregon residents from out-of-state or from within the state, except in-person sales from state agents are permitted.

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

Stats. Implemented: ORS 471.229 & ORS 471.404

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

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845-006-0396

Same-Day Retail Delivery of Alcoholic Beverages with Meal Service

(1) Requirements for Same Day Delivery. A licensee must qualify for this privilege under the standards of OAR 845-005-0420. A qualified licensee may make deliveries the same day the licensee receives the order only under the following conditions:

(a) A licensee must have an Off-Premises Sales license and either a Full On-Premises Sales or a Limited On-Premises Sales license, or a Brewery-Public House license, and must be in the business of preparing and serving regular meals on the licensed premises, must submit a complete written request for the privilege as specified in section (4) of this rule, and be approved by the Commission in writing;

(b) Before making any deliveries, the licensee must notify the Commission on a Commission supplied form that the licensee plans to provide this delivery service;

(c) Malt beverages, cider, and wine may account for no more than 25 percent of the retail cost of the delivered order; at least 75 percent must be food unless the licensee has received written Commission approval of a different alcohol-to-food retail cost ratio;

(d) The licensee must use delivery vehicles that prominently display the licensee's trade name;

(e) The licensee must make all deliveries before 9:00 p.m.;

(f) The licensee must prominently label each shipping container: "Alcoholic Beverages – Do not deliver to a person who is under 21 years of age or visibly intoxicated";

(g) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;

(h) The licensee must deliver only to a home or business;

(i) The licensee must not deliver kegs;

(j) At the time of delivery, the delivery person must complete a Commission-approved form. The delivery person must use the form to record the verification that the person who receives the delivery is at least 21 years old, the delivery address and the identity of the delivery person. The delivery person must give the completed form to the retail licensee who must keep this verification record for two years.

(2) Sanction. The sanction for a violation of this rule is a Category III violation. The sanction may include a restriction that prohibits further deliveries.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5) Stats. Implemented: ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0398

Next-Day Retail Shipment of Alcoholic Beverages by Oregon Licensees to Oregon Residents

(1) A licensee may deliver wine, cider, or malt beverages on any day after the day the licensee receives the order only under the following conditions:

(a) The licensee's license must include off-premises sales privileges for malt beverages to deliver malt beverages, and off-premises sales privileges for wine to deliver wine or cider;

(b) Before making the first delivery, the licensee must notify the Commission on a Commission supplied form that the licensee plans to provide this delivery service;

(c) The licensee must prominently label each shipping container: "Alcoholic Beverages – Do not deliver to a person who is under 21 years of age or visibly intoxicated" or similar message that the Commission approves;

(d) The licensee must deliver only to a person who is at least 21 years old and must not deliver to a visibly intoxicated person;

(e) The licensee must deliver only to a home or business;

(f) The licensee must not deliver kegs unless the licensee gets prior written Commission approval for the delivery;

(g) The delivery vehicles driven by the licensee or the licensee's employee must prominently display the licensee's trade name;

(h) If the licensee or licensee's employee makes the delivery, he/she must record the signature of the person who receives the delivery, proof of age (if age verification is required), the delivery address and the identity of the delivery person. (See OAR 845-006-0335 for age verification requirements.) The licensee must keep these records for at least 18 months after the delivery;

(i) If the licensee delivers through a common carrier, the licensee may use only a common carrier who has a Commission-approved delivery plan. The Commission requires plan approval to assure appropriate alcoholic

beverage delivery. The Commission evaluates common carrier delivery plans under the standards of OAR 845-005-0424.

(2) Sanction. Violation of this rule is a Category III violation. The sanction may include a restriction that prohibits further deliveries.

(3) Any person who knowingly or negligently delivers wine or cider which has been shipped under the provisions of ORS 471.229 to a person under 21 years of age, or who knowingly or negligently delivers wine or cider which has been shipped under the provisions of ORS 471.229 to a visibly intoxicated person, violates ORS 471.410 and commits a Class A misdemeanor, whether or not the person is licensed or appointed under the provisions of ORS Chapter 471.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5) Stats. Implemented: ORS 471.223, ORS 471.229 & ORS 471.305

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0430

Alcohol Management in Public Venues

(1) Purpose. The Commission is charged with regulating the sale and service of alcoholic beverages in a way which protects the safety and welfare of the citizens, and helps ensure that alcohol is used legally. The purpose of this rule is to set minimum standards to help licensees manage large public events, ensuring that minors and visibly intoxicated persons do not get or consume alcohol. The Commission may place additional requirements on individual events to help ensure legal, well-managed events.

(2) Definitions.

(a) "Attendance" means reasonably projected attendance.

(b) "Confined area" means an area within the event to which alcohol sales and consumption are restricted and where minors are prohibited. Alcohol Monitors are required if 2000 or more people are allowed in the confined area at any one time.

(c) "Alcohol Monitor" means a licensee's employee or agent who monitors the sale and consumption of alcoholic beverages, supplementing alcohol servers and security staff.

(d) "Walk around" means an event where people are allowed to walk around the entire event or some defined part of the event while consuming alcohol, and minors are allowed. Alcohol Monitors are required if there will be a daily attendance at the event of 2000 or more.

(3) This rule applies to:

(a) All annually licensed premises that do not have a Commission-approved operating plan and have any event with a daily attendance of 2000 or more. Annual licensees with a Commission-approved operating plan are exempt from this rule no matter what size events are held at the premises;

(b) All off premises events held by a regular or temporary licensee with a daily attendance of 2000 or more. If such licensee holds an event at another regular licensed premises that has a Commission-approved operating plan, the event holder must comply with the operating plan that is approved for the subject premises;

(c) To determine if this rule applies to an event, the licensee counts the total daily attendance (It does not matter how many people may consume alcohol or how many people are allowed in a confined area; what matters is the total daily attendance). To determine if an event needs Alcohol Monitors, see Section (2), Definitions, and Section (5), Assignment of Alcohol Monitors.

(4) Responsibilities and Requirements for Alcohol Monitors:

(a) Alcohol Monitors are responsible for ensuring that unlawful sales, service and consumption of alcoholic beverages do not occur on the licensed premises. Alcohol Monitor's duties include observing people, monitoring their alcohol consumption, looking for minors who are consuming alcoholic beverages, and preventing visibly intoxicated persons and minors from consuming alcoholic beverages;

(b) Alcohol Monitors must wear clothing or other designation, such as a button, which readily identifies them to the public as Alcohol Monitors;

(c) Alcohol Monitors must have completed Alcohol Server Education and hold a valid service permit. For annual licensees, this requirement applies to volunteer Alcohol Monitors and to compensated Alcohol Monitors;

(d) Despite Section (4)(c), Alcohol Monitors do not need to hold a service permit if they are uncompensated volunteers for a Temporary Sales licensee and are directly supervised on premises by an individual who has completed Server Education successfully within the last five years.

(5) Assignment of Alcohol Monitors. When determining the required number of Alcohol Monitors, licensees must use the total daily attendance if all or part of the event is a walk around event. See Section (2)(d) for a definition of walk around event. However, if alcohol sales and consumption

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will be limited to a confined area, the licensee uses the number of people allowed in the confined area at any one time to determine how many Alcohol Monitors are required. See Section (2)(b) for a definition of confined area. Alcohol Monitors must be on duty at all times of alcohol service as follows:

(a) For 2000 to 7500 people, at least three Alcohol Monitors;

(b) For each additional one to 2,500 people, at least one more Alcohol Monitor. For example, 7,501 to 10,000 people require at least four Alcohol Monitors; 10,001 to 12,500 people require at least five Alcohol Monitors; and

(c) One additional Alcohol Monitor for each point of sale that is not readily visible to the minimum number of Alcohol Monitors required in Section (5)(a) and (b). Point of sale means each stand, booth or other concession area where alcoholic beverages are sold and served.

(6) Approved Containers for On-Premises Consumption.

(a) Container sizes. Alcoholic beverages for consumption on the premises must be served as follows:

(A) Malt beverages:

(i) In a container no larger than 16 ounces;

(ii) For tastings, no more than 3 ounces of product.

(B) Wine:

(i) By the glass, a standard pour of no more than 4 ounces of product in a container no larger than 24 ounces;

(ii) For tastings, no more than 1 1/2 ounces of product in a container no larger than 24 ounces;

(iii) A bottle of wine no larger than 750 ml sold for more than one person and for on-premises consumption only, with containers no larger than 24 ounces.

(C) Distilled Spirits:

(i) Up to 1 ounce of distilled spirits without mixer in a container no larger than 4 ounces;

(ii) Up to 1 ounce of distilled spirits with mixer served in a container no larger than 9 ounces.

(D) Cider:

(i) In a container no larger than 16 ounces;

(ii) For tastings, not more than 3 ounces of product;

(iii) A bottle of cider no larger than 750 ml sold for more than one person and for on-premises consumption only.

(b) Container color or type. Containers used to serve alcoholic beverages must be of a visibly and distinctively different color or type when compared to containers used to serve nonalcoholic beverages.

(7) Limits on Alcohol Sales:

(a) Each purchaser of alcoholic beverages may buy no more than two drinks at any one time, or one bottle of wine or cider for consumption on the premises that is no larger than 750 ml at any one time.

(b) Alcoholic beverages must be sold and served consistent with Section (6).

(c) If it is reasonably projected that 30 percent or more of the people at the event will be between 15 and 20 years of age, the licensee must limit the sale of alcoholic beverages to a confined area where minors are prohibited unless the licensee gets a variance under Section (9).

(d) Walk around events must have sufficient lighting to ensure that Alcohol Monitors, alcohol servers, security staff, OLCC staff, and law enforcement staff can observe and monitor for over consumption, minors consuming or in possession, and other liquor law violations.

(8) Transportation. The Commission encourages messages before and at events reminding people of the risks of drinking and driving, and encourages alternatives such as designated drivers and, when possible, offering alternate transportation.

(9) Request for Variance. The Commission may grant a variance to part or all of this rule if the request is consistent with the intent of the rule. Any licensee or applicant who requests a variance from any of the criterion stated above must submit the request along with a detailed security plan at least 30 days prior to the event. The Commission will discuss requests for variances with the recommending authority when appropriate. When the Commission grants a variance, the Commission may add other requirements to ensure that the event operates in a way consistent with the intent of the rule. For example, if the Commission were to allow the sale of bottles of wine larger than 750 ml, the Commission might require that the licensee increase the number of Alcohol Monitors to help ensure that the larger bottles did not result in over consumption or in alcohol getting to minors. Other examples of when the Commission will consider granting a variance include events where minors are not permitted to attend and family events (events where minors are accompanied by adults).

(10) Sanction for Violation:

(a) A licensee who violates this rule with respect to the proper training, assignment and use of Alcohol Monitors or by failing to comply with Section (6) related to containers, commits a Category IV violation under the Commission's sanction schedule (OAR 845-006-0500).

(b) If a licensee holds a walk around event and violations related to the sale or service of alcoholic beverages to minors or visibly intoxicated persons occur, or a violation of Section (7)(d) occurs, the next time this event or similar event is held, alcohol must be limited to a confined area unless the licensee get a variance under Section (9).

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.030, ORS 471.040, ORS 471.115, ORS 471.360, ORS 471.410, ORS 471.412, ORS 471.430 & ORS 471.730(1)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0433

Minibars in Hotel Guest Rooms

ORS 471.180 allows a Limited On-Premises Sales or Full On-Premises Sales licensee who operates a hotel to make alcoholic beverages, stored in locked cabinets (minibars) in individual guest rooms, available to guests. Licensees may provide these alcoholic beverages under the conditions identified in this rule.

(1) Only a service permittee or trained employee may give guests the key to minibars. A trained employee is one who has participated in a training program that meets, at least, the requirements in the Commission's Alcohol Server Education Model Curriculum on identifying minors and recognizing the signs of visible intoxication.

(2) The licensee must not give a minibar key to minors or visibly intoxicated persons. The licensee may not give a minibar key to a guest if the licensee has reason to believe the guest is accompanied by a minor and is not the minor's parent or caretaker.

(3) Restocking:

(a) Any employee who is at least 18 years old may restock a minibar when restocking is not in response to guest request for immediate restocking;

(b) Only a service permittee may restock a minibar in response to guest request for immediate restocking (restocking is the same as selling/serving in this instance);

(c) In response to guest request for restocking, employees will not restock a minibar:

(A) If there are visibly intoxicated persons or minors unaccompanied by their parents in the room;

(B) After 2 a.m.;

(C) With amounts of alcohol that the people in the room cannot reasonably consume by 2:30 a.m.

(4) Limitations:

(a) On container size: The individual containers in a minibar may be no larger than 50 milliliters for distilled spirits, 12 ounces for malt beverages and 375 milliliters for wine or cider;

(b) On number of containers: The total number of alcoholic beverage containers in a minibar may not exceed 30.

(5) Each minibar will have a clearly visible sign on the outside or inside of the minibar. The sign will explain the following liquor laws: minors and visibly intoxicated persons may not drink alcohol from the minibar; guests/visitors may not drink alcohol from the minibar between 2:30 a.m. and 7 a.m.; and guests/visitors may not take alcohol from a minibar off the premises.

(6) Food: At a minimum, the licensee must have a variety of snacks available during the hours that a guest may lawfully access the minibar.

(7) The Commission will hold a licensee responsible for liquor law violations that occur in guest rooms only if the licensee or employee permitted the violation.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.180

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0434

Minibars in Arena Suites

(1) ORS 471.180 allows a Limited On-Premises or Full On-Premises Sales licensee who operates suites in an arena to store alcoholic beverages in a minibar and to make those beverages available to guests of arena suites. The purpose of this rule is to regulate the use of minibars in arena suites. The Commission reserves the right to add restrictions regarding the service of alcohol from minibars to the license of any arena licensee when those restrictions are considered by the Commission to be a reasonable response to a potential public safety problem or concern.

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(2) Definitions:

(a) "Adults": Persons 21 years of age or older;

(b) "Arena suite": An enclosed, leased, private suite which is separate from the general admission area in an arena. The Commission considers an arena suite as a part of the arena;

(c) "Containers": For purposes of this rule, an individual container of each alcoholic beverage listed below must contain no more than the following amount of alcohol:

(A) Distilled spirits: 1.7 ounces or 50 milliliters;

(B) Bottles or cans of malt beverage: 12 ounces or approximately 355 milliliters;

(C) Malt beverage in kegs: 8 liters;

(D) Wine or cider: 25.4 ounces or 750 milliliters;

(d) "Licensee": For purposes of this rule, licensee refers to an arena which has been issued a Limited On-Premises or Full On-Premises Sales license under the provisions of ORS chapter 471;

(e) "Minibar": A locked cabinet and/or locked refrigerator used to store alcoholic beverages;

(f) "Monitoring": An observation of suite guests for a reasonable amount of time by a service permittee who must serve food, alcoholic beverages, non-alcoholic beverages, or perform related duties in the suite during the period of monitoring to provide an opportunity for the permittee to observe whether minors are consuming alcohol, whether guests show any signs of visible intoxication and whether any unlawful acts are occurring;

(g) "Service Permittee": An individual who has successfully completed an approved Alcohol Server Education course and has a valid Service Permit;

(h) "Suite Holder": A person or entity that has entered an agreement to occupy an arena suite. Where such suite holder is a business or a corporation, that suite holder will designate at least one adult as the suite holder's representative for each event.

(3) Operational Rules for Arena Suites: The licensee may provide alcoholic beverages only under the following conditions in arena suites:

(a) Maximum Containers Allowed Per Suite:

(A) Each suite must be stocked with no more than:

(i) One 8 liter keg of malt beverage and 60 additional containers of a variety of

alcoholic beverages; or

(ii) Eighty (80) containers of a variety of alcoholic beverages; no keg of malt beverage is permitted.

(B) Only one 8 liter keg of malt beverage may be present in a suite at any one time. Alcoholic beverages which are brought into the suite from other areas in the arena for immediate consumption by suite guests will not be counted in the maximum number of containers of alcohol allowed in the arena suite.

(b) Responsibilities of Suite Holder and Suite Guests:

(A) When the suite holder will not be present for an event, the suite holder must designate one adult as the suite holder's representative for that event. The suite holder or suite holder's representative must be present in the suite throughout each event;

(B) For purposes of OAR 845-006-0362 and 845-006-0345, the suite holder or suite holder's representative and suite guests are deemed to be the licensee's agents or representatives. The Commission holds the suite holder, the suite holder's representative and suite guests to the same standard of care in serving alcohol as the licensee.

(c) Responsibilities of the Licensee:

(A) A service permittee must monitor each suite for alcohol-related problems a minimum of four times each hour while the suite is occupied. However, the Commission may enter an agreement with a licensee to defer enforcement of this provision and to require less frequent monitoring when the Commission has reason to believe that less frequent monitoring will be adequate to insure that alcohol-related problems will not occur. The Commission will reserve the right to revoke the agreement and to require compliance with this subsection of the rule if the Commission has reason to believe more frequent monitoring is necessary to prevent alcohol-related problems;

(B) No alcohol may be consumed in an arena suite from one hour after an arena event has ended until 7:00 a.m. Notwithstanding this portion of the rule, if the arena suite is used for a private party when no arena event is occurring, no alcohol may be consumed in the arena suite from 12:00 midnight until 7:00 a.m. Under no circumstances may alcohol be served or consumed between 2:30 and 7:00 a.m.

(C) If a service permittee observes a minor or visibly intoxicated person being served or consuming alcoholic beverages, the service permittee must:

(i) Remove the alcohol from the minor or visibly intoxicated person;

(ii) Lock the minibar;

(iii) Notify the licensee about the minor or visibly intoxicated person who was consuming alcohol;

(iv) Call arena security to carry out the arena's operational plan with regard to minors or visibly intoxicated persons; and

(v) Serve all alcohol in the suite during the remainder of the event. After locking the minibar, a service permittee may either remain in the suite to serve alcohol throughout the remainder of the event or a permittee may serve alcohol to suite guests when monitoring the suite.

(D) If a minor has consumed alcohol in an arena suite, the minor must be removed from the arena suite.

(d) Keys to a Minibar: Only the licensee or a service permittee may unlock a minibar. The licensee or a service permittee must unlock a minibar only for a suite holder or suite holder's representative.

(e) Restocking a Minibar:

(A) Any employee who is at least 18 years old may restock a minibar when there are no suite guests present and no event is occurring;

(B) Only a service permittee may restock a minibar during an event or when guests are present in the suite;

(C) Before restocking a minibar during an event or when guests are present in the suite, the service permittee must observe the guests to insure that there are no visibly intoxicated persons or minors consuming alcohol in the suite. A service permittee must not restock after 10 p.m.

(f) Posted Signs: Each minibar must have a clearly visible sign on the outside or inside of the minibar. The sign must explain the following liquor laws and rules: minors and visibly intoxicated persons must not drink alcohol; the suite holder, suite holder's representative and suite guests must remove the alcohol from any visibly intoxicated person; and no alcohol may be consumed in the suite from one hour after an event in the arena has ended until 7:00 a.m., or if no event is occurring in the arena, between 12 midnight and 7:00 a.m.

(g) Food in Arena Suites: At a minimum, each suite must contain a variety of snacks for guests to eat during the hours the minibar is unlocked.

(4) Records:

(a) The licensee must keep records of all sales of alcohol and food for each suite during the license term and must maintain the records for a period of at least two years;

(b) The licensee must make available for inspection by Commission staff on an annual basis the average total food and total alcohol sales for all arena suites.

(5) Violations: Violation of the provisions of paragraph (3)(c)(C) (response to minor or visibly intoxicated person consuming) and subsection (3)(e) (restocking minibar) of this rule are Category III violations in the Commission's sanction schedule. All other violations of sections (3) and (4) of this rule are Category IV violations under the Commission's sanction schedule:

(a) The licensee is responsible for knowing when minors and visibly intoxicated persons are present in arena suites and for taking reasonable steps to insure that they do not consume alcohol. If a minor or visibly intoxicated person consumes alcohol in an arena suite, the licensee is responsible for permitting the minor or visibly intoxicated person to consume alcohol in violation of liquor laws;

(b) Adherence to the provisions of this rule is not a defense to a charge of violating liquor laws. If the Commission determines that minibar use causes or creates liquor law violations or a public safety problem, the Commission reserves the right to require the licensee to use service permittees to serve all alcohol in arena suites.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.180

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thur 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

845-006-0450

Retail On-Premises Malt Beverage or Wine Sampling: Operating Requirements and Limits

The Commission allows certain other Oregon licensees to conduct or participate in malt beverage, cider, or wine sample tasting on Full On-Premises Sales, Limited On-Premises Sales, and Off-Premises Sales licensed premises as specified in OAR 845-005-0427, subject to the requirements and limits identified in this rule.

(1) Sample Sizes. The size of each sample must not exceed one and a half ounces for wine or cider and three ounces for malt beverages.

(2) Identified Tasting Area. Any Off-Premises Sales retailer who conducts tastings or who allows manufacturers to conduct tastings on the retail premises must identify a specific tasting area or areas. The area/s must be

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of a size and design such that the person/s conducting the tasting can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area or areas until they have finished consuming the sample. The retailer must keep on file at the premises a floor plan identifying the tasting area(s). If a retailer does not have an identified tasting area or areas, the Commission may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more manufacturer-conducted tastings on the premises.

(3) Number of In-Store Tastings.

(a) A manufacturer may be in each retail premises no more than eight times per calendar year for the purpose of tastings, including both manufacturer-conducted tastings and retail-conducted tastings where the manufacturer assists.

(b) There is no limit on the number of tastings a retailer may conduct, but the retailer must not allow a manufacturer on the retailers premises more than eight times per calendar year for the purpose of tastings.

(4) Manufacturer Conducted Tastings. A manufacturer may hold tastings on consecutive days in one premises, but the tastings must not exceed two consecutive days. Tastings must be conducted at least four weeks apart. If a manufacturer holds tastings on two consecutive days, they must not hold another tasting on that retail premises for at least four weeks.

(5) Server Requirements. Alcohol servers must have service permits.

(6) Record Keeping. The manufacturer or wholesaler must keep a record of each tasting they conduct, including the date and location of each event, the products served and the names of the servers.

(7) Manufacturer-Conducted Sample Tastings: Oregon law allows Oregon Winery, Grower Sales Privilege, Brewery, Brewery-Public House and Warehouse licensees and Oregon Certificate of Approval holders, for the product for which they hold the certificate, to conduct tastings if they:

(a) Provide the product to be tasted, and remove any remaining product at the end of the tasting;

(b) Provide or pay for a person to serve the wine, cider, or malt beverages. The server must be the manufacturer's employee or agent. The manufacturer may not compensate any employee or agent of the retail licensee to participate in the tasting; and

(c) Do not advertise the tasting. The retailer may advertise the tasting only inside the licensed premises.

(8) Retailer-Conducted Tastings. Retailers with Full On-Premises Sales, Limited On-Premises Sales and Off-Premises Sales licenses may conduct tastings on their licensed premises and may:

(a) Accept assistance from manufacturers, wholesalers and warehouse licensees, and from certificate of approval holders if:

(A) The only assistance provided is an employee to assist. Assist includes pouring if the person meets the requirements in subsection (5);

(B) The retailer pays for the wine, cider, or malt beverages; and

(C) The retailer is responsible for any advertising.

(b) Sponsor an unlimited number of tastings if there is no manufacturer, wholesaler, warehouse or certificate holder involved. The retailer may advertise these events.

(9) Prohibitions. Off-Premises Sales licensees at locations where petroleum products are sold shall not conduct or allow sample tasting on the licensed premises or otherwise at the licensed location, unless the licensee operates a fully enclosed retail area encompassing at least 20,000 square feet and tastings take place within that retail area.

Stat. Auth.: ORS 471, including ORS 471.030, ORS 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.398 & ORS 471.402

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 16-2002, f. 12-19-02, cert. ef. 1-1-03; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03

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Adm. Order No.: OLCC 13-2003(Temp)

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03 thru 3-20-04

Notice Publication Date:

Rules Amended: 845-006-0335

Subject: The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of Oregon's citizens. As a policy-making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. The Oregon statutory framework gives the Commission the duty to identify licensed premises or portions of premises where minors are prohibited. There are narrow statutory exceptions.

The general premise embodied in rule is that minors should not be places where there is a "drinking environment" defined as a place where drinking is the primary activity. Exceptions to the prohibition of minors in drinking environments envision limited exposure to drinking environments. For example, ORS 471.482(3) only allows the Commission to permit access to prohibited areas for employment purposes "as long as the minor does not remain longer than is necessary to perform the duties." When crafting exceptions by rule, the Commission must seek to retain this very limited framework designed for public safety purposes.

In some businesses, minor entertainers mingle with and interact with adult patrons before and after their stage performances. The minors sell musical tapes, t-shirts, products associated with the licensed premises, and in some cases, solicit private (table/couch/lap) dances. The Commission is concerned that these activities, which involve minors directly interacting with adult drinking customers, do not comport with the statutory framework OLCC must administer. The proposed amendments would remove rule language which allows minor entertainers to perform in areas posted as prohibited to them. The proposed amendments would also bar minor vendors or contractors from prohibited areas except when the licensed premises is totally closed for business. All of the proposed measures are designed to improve the public safety of minors.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-006-0335

Age Verification; Minors on Licensed Premises

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages or is in an area prohibited to minors if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires;

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category III violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for selling to or serving a minor, allowing a minor to drink or allowing a minor in an area prohibited to minors, the Commission will not also sanction the licensee or permittee for failure to verify age;

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category III violation.

(3) Minors on Premises: General Prohibitions. No licensee, permittee, or licensee's employee will permit a minor:

(a) To buy, be served or drink any alcoholic beverage on licensed premises;

(b) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, and this rule (The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.)

(4) Minor Employee and Service Permittee:

(a) A minor employee may be in a Number II, III-A after 9 p.m., IV or V posted area only to restock supplies and do food service related activities such as setting and clearing tables and delivering food. In addition, a minor employee may be in a Number IV posted area to take orders for and serve food during the specified meal periods;

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(b) A minor service permittee may do the duties described in subsection (a) of this section as well as the alcohol-related duties ORS 471.482 allow.

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose may be in the area of the licensed premises normally prohibited to minors only when the licensed premises is closed for business, either to the public or for private parties. (For example, a minor who is a plumber may repair the plumbing in a prohibited area when the premises is totally closed for business.)

(6) Minor Patron: A minor patron may be in areas of licensed premises normally prohibited to minors in the following circumstances:

(a) If the licensee permits it, a minor may be in the immediate company of his/her spouse who is at least 21 years old except as prohibited in OAR 845-006-0340(3). The minor must not buy, possess or drink alcoholic beverages.

(b) A minor may order and eat a meal in a Number IV posted area during the specified meal periods. This meal must at least meet the minimum food service requirements of OAR 845-006-0460.

(7) Sanctions: A violation of subsection (3)(a) of this rule is a Category III violation. A violation of subsection (3)(b) through section (6) of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including ORS 471.030 & ORS 471.730

Stats. Implemented: ORS 471.430

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2002, f. 8-29-02, cert. ef. 1-2-03; OLCC 13-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04

Adm. Order No.: OLCC 14-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 11-1-03

Notice Publication Date: 6-1-03

Rules Amended: 845-006-0340

Subject: This is the rule wherein the Commission sets forth its standards and requirements for minor patronage and the minor posting signs which tell the public where minors are allowed or prohibited. We are making minor housekeeping changes to the language which appears on several of the minor posting signs.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-006-0340

Minor Postings

(1) Purpose. The Commission is charged with regulating the sale of alcohol in a manner which protects the safety and welfare of the citizens, and ensures that alcohol is used legally. As a policy making body, the Commission has a responsibility to send a clear message to the community and its youth that drinking alcohol is an adult activity, and that drinking environments are for adults. At the same time, the Commission recognizes the need to maximize opportunities for minors to eat at licensed premises while minimizing their exposure to drinking environments. This rule applies only to licenses that allow on-premises consumption.

Note: Words or phrases followed by an asterisk (*) are defined in Section 8, Definitions, of this rule.

(2) When Minor Patrons are Allowed. Unless prohibited under Section 3, the Commission uses the criteria in this section to assign minor postings. The Commission allows minors on licensed premises where the license allows on-premises consumption only under the following circumstances:

(a) Minors may be in an area for the purpose of consuming food or refreshments during hours when eating predominates* in that area;

(b) Minors may be in concert halls* and at performing arts centers* for the purpose of attending a performance or lecture if drinking is minimal and allowed in lobby areas preceding the event and during intermissions, or if drinking is physically confined to areas prohibited to minors. The licensee must give the Commission a written security plan that convinces the Commission minors will not get alcohol;

(c) Minors may be in dance halls* for the purpose of attending a dance if drinking at the time of the dance is physically confined to areas prohibited to minors, and if alcohol service is incidental, and if:

(A) The areas where minors are allowed is lighted to allow effective monitoring of patron activity;

(B) The area where minors are allowed has minimal alcohol advertising or references;

(C) The area where alcohol is sold, dispensed and/or consumed is physically confined and is not visible from the area where minors are allowed, or if visible, has substantial barriers to ensure minors will not obtain alcohol;

(D) The licensee has a Commission approved security plan that convinces the Commission minors will be in an environment that is consistent with section (1) of the rule, where they will not get alcohol, and that the licensee will employ sufficient staff to monitor patron activity.

(E) If a liquor law violation involving a minor occurs, the Administrator may require that additional control measures be added to the security plan before the next license renewal date.

(d) Minors may be in a foyer or similar area if the area does not have a drinking environment*;

(e) Minors may be in an area of a hotel, convention center, golf course, bowling alley, zoo, amusement park, museum, laundromat or bookstore where there is no drinking environment as defined in Section (8)(d)(B) of this rule, and where drinking is minimal;

(f) Minors may be in a separate game room if no alcohol is allowed in the room and if minors are otherwise allowed in the premises;

(g) Minors may accompany their parent or legal guardian in the tasting room or tasting area of an Off-Premises Sales, Winery, Brewery, brandy Distillery or business with a Grower Sales Privilege license;

(h) Minors may be in areas of an Off-Premises Sales, Winery, Brewery, brandy Distillery or business with a Grower Sales Privilege license where there is no drinking;

(i) Minors may be in an area prohibited to minors while in the immediate company of their spouse who is at least 21 years old, if the licensee permits it;

(j) Minors may be allowed in other circumstances where the licensee's operating plan is consistent with the intent of this rule, and the Administrator approves it. The Administrator periodically reports these circumstances to the Commissioners to determine whether clarifying rule-making is needed.

(3) Exceptions. Even when allowed under the above circumstances:

(a) Minors may not sit at a bar;

(b) Minors may not be in an area where there is a drinking environment during happy-hours or similar reduced-price drink hours;

(c) Minors may not be in a Number IV posted area except for the purpose of consuming food, and may not use entertainment devices in that area;

(d) Minors may not be in an area where there is video poker or other gambling (except parimutuel gambling, bingo, raffles, keno monitors, pull tabs and lottery scratch tickets authorized and regulated by the State of Oregon), nude entertainment or stage revues* which are often found in adult* drinking environments. Minors may not be in an area where this entertainment is visible;

(e) Section (3) of this rule does not apply to minor spouses, as provided in Section (2)(i) of this rule.

(4) Minor Postings. The Commission uses the following minor posting signs to tell the public where minors are allowed or prohibited, and to assist licensees in controlling the presence of minors. When the facts do not clearly and convincingly meet the criteria for allowing minors, the Commission interprets the rule to prohibit minors. The Commission does not assign more than one type of minor posting to an area unless there are definable boundaries. The following information is intended as general guidance to Commission staff.

(a) "No Minors Permitted Anywhere on This Premises", (Number I Minor Posting). The Commission typically assigns this posting to entire premises where there is a drinking environment. Some examples are taverns and one-room bars.

(b) "No Minors Permitted in This Portion of The Premises", (Number II Minor Posting). The Commission typically assigns this posting to areas of premises where there is a drinking environment. Some examples are lounges, gambling rooms, the bar and other drinking areas.

(c) "Minors Allowed in This Area", (Number III Minor Posting). The Commission typically assigns this posting to areas or entire premises where eating or some other activity generally predominates over drinking. The Commission does not assign this posting to areas where there is a drinking environment. The Commission does not generally require the Number III sign to be physically posted. Minors may use entertainment devices in Number III posted areas. Some examples are restaurants, dining rooms in premises with separate lounges, hotel lobbies, bowling alley concourses and golf courses.

(d) "Minors Allowed From: ___ To: ___ (Hours) On: ___ (days)", (Number III-A Minor Posting). The Commission typically assigns this posting to allow minors in restaurants or dining rooms during times when eating predominates and where there is not a drinking environment (as defined in Section (8)(d)(B)), and to prohibit minors during times when more people are drinking alcohol than eating meals. Minors may use enter-

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tainment devices. Minors may not be in Number III-A posted areas after 9:00 p.m. An example is a pizza parlor with karaoke in an area that does not have a likeness to a tavern, bar or lounge (Section (8)(d)(B)), and eating predominates during some hours. Minors are allowed in the area and may participate in karaoke during the hours when eating predominates, but minors are not allowed during the hours when eating does not predominate.

(e) "Minors Allowed During These Hours Only. On: ___ (days) from: ___ to: ___ and only for the purpose of consuming food, (Number IV Minor Posting). The Commission typically assigns this posting to an area or entire premises that often has a drinking environment to let minors consume food during times when eating predominates. An example is a tavern or pub where eating predominates over drinking during lunch or dinner.

(f) "No Minors Permitted Unless with a Parent or spouse age 21 or over", (Number V Minor Posting). The Commission typically assigns this posting to tasting rooms.

(5) Temporary Relaxation of Minor Postings. The Commission recognizes that under special, limited circumstances, it may be appropriate to allow minors in areas where minors are normally prohibited. The Commission does this to meet a community need or to offer minors a controlled alternative to alcohol-oriented private parties. Therefore, the Commission may grant a temporary relaxation of a minor posting for an occasional event held on a licensed premises.

(a) The Commission does not grant relaxations when:

(A) There has been a recent serious violation history* in the room, area or entire premises; or

(B) During the activity, the area has video poker or other gambling (except parimutuel gambling, bingo, raffles, keno monitors, pull tabs and lottery scratch tickets authorized and regulated by the State of Oregon), stage revues, wet t-shirt events, mud wrestling or nude entertainment which are often found in adult drinking environments. The Commission does not grant relaxations if any of this entertainment is visible from the area where the activity is held.

(b) The Commission may temporarily allow minors into a normally prohibited area under these circumstances:

(A) The licensee needs additional space for overflow family dining for widely recognized holidays, such as Mother's Day, Father's Day and Thanksgiving, and eating predominates;

(B) The activity is a special family event held in a physically separate room or area. The general public is not allowed at the event. Some examples are wedding receptions and family reunions;

(C) The activity is sponsored and promoted by a civic group*. An example is a school-sponsored party. The following conditions apply:

(i) The group must make a written statement that no other facility in the community is available that can reasonably accommodate the activity;

(ii) A group may sponsor one activity at a licensed premises per quarter;

(iii) The licensed premises has no recent serious violation history*;

(iv) All alcohol must be covered and may not be served or consumed in the room or area;

(v) No imitation cocktails or non-alcoholic beer or non-alcoholic wine are allowed;

(vi) No alcohol advertising is visible; and,

(vii) Minor posting signs which prohibit minors must be covered during the activity.

(c) If the Commission grants a relaxation and the licensee violates any of the conditions, it is a Category IV violation.

(6) Temporary and Permanent Changes to Minor Postings:

(a) A licensee may not change a minor posting without prior written approval of the Commission. A licensee must submit a change request in writing. The Commission approves or denies a licensee's request in writing.

(b) The Commission may change a minor posting if:

(A) The posting is inconsistent with this rule;

(B) A licensee requests a posting that is consistent with this rule; or

(C) As a result of a liquor law violation, minors should be prohibited.

(7) Licensee Responsibilities:

(a) The burden is on the licensee to convince the Commission that "eating predominates", that the premises does not have a "drinking environment" or that drinking is minimal;

(b) The licensee is responsible for developing and completing any required written security plan;

(c) A licensee must place minor posting signs in full public view as directed by the Commission. A licensee must immediately replace any altered, unreadable or missing sign. Failure to do so is a Category V violation.

(8) Definitions. For this rule:

(a) "Eating predominates" means at least two of the following conditions exist in the area proposed for minor patronage during the time minors are present:

(A) More people eat meals than drink alcohol (or the licensee reasonably projects this);

(B) Gross sales of food exceed gross sales of alcohol (or the licensee reasonably projects this);

(C) More floor or table space is used for eating meals than for drinking alcohol.

(b) "Concert hall" and "performing arts center" mean a premises offering live performances of the arts such as music, dance, theater, or lectures where fixed seating is provided in the performance room for each ticket holder and there is no location provided for patron dancing.

(c) "Dance hall" means a premises or a portion of the premises which is not ordinarily used as a dining area, and where music is provided and where minors patrons or patrons of all ages are provided a location where they may dance.

(d) "Drinking environment" means:

(A) More people drink alcohol than eat meals; or

(B) There is a combination of conditions and factors which collectively create a likeness to a tavern, bar or lounge. Examples are cocktail tables, a bar, bar equipment and accessories, dance floor, dim lighting, alcohol advertising, entertainment devices, games, music and multiple televisions.

(e) "Recent serious violation history" generally means two violations involving minors, visibly intoxicated people, illegal activities, disorderly conduct or drinking on duty. However, if the circumstances of a violation are severe, one violation may be sufficient. Recent means within the last two years while operating with a liquor license.

(f) "Civic group" means a non-profit corporation, association or political entity, or any authorized representative of a governmental entity. Examples are parent-teacher associations, Rotary and Toastmasters. Civic group does not include any group made up primarily of minors.

(g) "Stage revue" means a live performance with adult or sexual themes of a type usually performed on a stage, involving players performing such activities as skits, song, dance and comedy routines.

(h) "Adult" means 21 years of age or older.

(9) Other Information on Minor Postings.

(a) The Commission does not usually assign minor postings in:

(A) Private clubs;

(B) Catered and temporary events;

(C) Areas of annually licensed businesses which are used for a variety of events, except those areas where there is a drinking environment as defined in paragraph (8)(d)(B). Some examples are convention centers, sports arenas, operations with banquet rooms, and multi-use outdoor areas; or

(D) Designated tasting areas in Off-Premises Sales licensed premises that are not used primarily for tasting.

(b) However, the Commission may assign a minor posting to these businesses for the following reasons:

(A) To prevent violations from occurring or reoccurring;

(B) In response to the licensee's request; or

(C) To manage special events on annually licensed premises. However, the Commission generally regulates the presence and activities of minors on these premises by placing conditions and/or restrictions on the license, or by approving or rejecting the licensee's plan for premises and patron management.

(c) Minor Postings apply 24 hours a day.

(10) Hearing Rights. If Commission staff deny a licensee's written request to change or temporarily relax a minor posting, the licensee has the right to a hearing to contest the decision. However, the licensee must comply with the decision unless the Commission issues a final order which reverses the staff decision.

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

Stat. Implemented: ORS 471.430(3)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2003, f. 9-23-03 cert. ef. 11-1-03

Adm. Order No.: OLCC 15-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 11-1-03

Notice Publication Date: 5-1-03

Rules Amended: 845-009-0020

Subject: This is the rule wherein the Commission sets forth its standards and criteria for refusing to issue a Service Permit. We need to

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make housekeeping changes in order to bring our refusal standard for Americans With Disabilities Act-related issues in line with a newly adopted rule setting similar standards for license applicants. We will change standards for documentation and period of sobriety.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-009-0020

Service Permit Denial Criteria

(1) ORS 471.380(1)(a) and (d) allow the Commission to deny a service permit based on the applicant's habit of using alcohol or controlled substances to excess and on the applicant's law violation history. This rule describes how the Commission applies these statutory provisions.

(2) For this rule, references to a period of time mean a period of time ending on the date the Commission receives the application. For example, "within two years" means within two years of the date the Commission receives the application.

(3) To be qualified for good cause under this rule:

(a) An applicant must have had a drug addiction disability or alcohol addiction disability at the time of:

(A) Felony drug conviction(s) (OAR 845-009-0020(4));

(B) A felony conviction involving the commission of a violent crime where alcohol or controlled substances were involved (OAR 845-009-0020(5)(a)(A));

(C) Felony Driving While Suspended (DWS) conviction(s) resulting from Driving Under the Influence of Intoxicants (DUII) convictions or diversions (OAR 845-009-0020(6)); or

(D) DUII convictions or diversions which form the denial basis under OAR 845-009-0020(7) and (8); or

(b) The applicant was diagnosed as drug or alcohol addicted at the time of or as a result of the incidents described above.

(4) Felony Drug Conviction:

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within 12 months for possession of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions;

(B) A felony conviction within two years for manufacture, delivery or distribution of a controlled substance or any other drug related felony as described in ORS Chapter 475 or similar laws in other jurisdictions (except possession of a controlled substance).

(C) Two controlled substance felony convictions, one of which was within three years;

(D) Three or more controlled substance felony convictions, any one of which was within six years.

(b) The only good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed controlled substances within 24 months; and

(B) He/she has successfully completed a state certified drug treatment program or is actively involved in a state certified drug treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(5) Felony Involving the Commission of a Violent Crime

(a) The Commission will deny a service permit if the applicant has had:

(A) A felony conviction within two years for the commission of a violent crime where alcohol or controlled substances were involved;

(B) Two felony convictions for the commission of violent crimes, any one of which was within three years;

(C) Three felony convictions for the commission of violent crimes, any one of which was within six years;

(b) The only good cause to overcome the criterion in subsection (a)(A) above is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(c) "Violent crime" means crimes which cause, attempt to cause, or threaten physical injury or harm to another person. Examples are: Murder, rape, assault, sodomy, armed robbery.

(6) Felony Driving While Suspended (DWS) Conviction:

(a) The Commission will deny a service permit if the applicant has had:

(A) One felony DWS conviction within 12 months;

(B) Two felony DWS convictions, either one of which was within three years;

(C) Three felony DWS convictions, any one of which was within six years.

(b) If the convictions for DWS were the result of DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in this section is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(7) Driving Under the Influence of Intoxicants (DUII)/ Furnishing Alcohol to Minors/ Liquor Law Violations:

(a) The Commission will deny a service permit if:

(A) Within three years the applicant has had two DUII convictions or one diversion and one conviction, any one of which was within 12 months;

(B) Within seven years the applicant has had a combination of three diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within 18 months;

(C) Within ten years the applicant has had a combination of four or more diversions and convictions for DUII or Furnishing Alcohol to Minors, any one of which was within three years.

(D) Within five years the applicant has had a liquor license or service permit canceled for liquor law violations. The Commission may grant the permit in less than five years if the violations did not involve threats to public safety or demonstrate that the applicant would be a poor compliance risk as an alcohol server.

(b) If applicant has DUII convictions or diversions, good cause may apply. Good cause to overcome the criteria in subsection (a)(A) through (C) above is the applicant's sworn statement on a Commission-supplied form that:

(A) He/she has not used or consumed alcohol or controlled substances within 24 months; and

(B) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(C) He/she has completed all parole or probation requirements.

(8) Habit of Using to Excess. The Commission will deny a service permit if within ten years the applicant has had a combination of four or more diversions or convictions for DUII or felony drug related convictions or diversions, if the most recent conviction/diversion was within two years. The only good cause to overcome the criterion in this section is the applicant's sworn statement on a Commission-supplied form that:

(a) He/she has not used or consumed any alcohol or controlled substances within 24 months; and

(b) He/she has successfully completed a state certified alcohol or drug treatment program or is actively involved in a state certified alcohol or drug treatment or recovery program, and is following treatment recommendations. If a completion certificate or other proof that the applicant successfully completed a treatment program is available, the applicant will provide a copy to the Commission; and

(c) He/she has completed all parole or probation requirements.

(9) Pending Charges. If otherwise eligible, the Commission may grant a service permit to an applicant who has any drug/alcohol related charges pending on the date the Commission receives the application. The Commission will issue the permit with a restriction that the permittee must notify the Commission, in writing, of the disposition of the charge(s).

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

Stats. Implemented: ORS 471.380

ADMINISTRATIVE RULES

Hist.: OLCC 1-1993, f. 1-27-93, cert. ef. 7-1-93; OLCC 6-1999(Temp), f. 4-23-99, cert. ef. 4-26-99 thru 10-22-99; OLCC 18-1999, f. 11-2-99, cert. ef. 11-3-99; OLCC 15-2003, f. 9-23-03 cert. ef. 11-1-03

Adm. Order No.: OLCC 16-2003(Temp)
Filed with Sec. of State: 9-23-2003
Certified to be Effective: 9-23-03 thru 3-20-04
Notice Publication Date:
Rules Amended: 845-015-0140

Subject: OAR 845-015-0035 is the rule by which the commission lays out its service requirements of retail sales agents in terms of days and hours of operation. Current rule language prohibits Sunday sales, and lists a number of holidays upon which agencies must be closed.

The Commission needs to amend OAR 845-015-0140 to agree with statutory language. The proposed amendments will allow retail sales agents the option of being open on Sundays and holidays, with no minimum operating hours on Sundays and holidays.

Rules Coordinator: Katie Hilton—(503) 872-5004

845-015-0140

Hours and Days of Operation

To ensure adequate service to the public, the Commission requires retail liquor stores to maintain convenient hours of operation:

(1) Except for Sundays and holidays, all retail liquor stores must be open between the hours of 12 noon and 6 p.m. Retail liquor stores may not open earlier than 7 a.m. or close later than 10 p.m.

(2) Except for Sundays and holidays, retail liquor stores will be open a minimum of eight hours each day.

(3) On Sundays or holidays, retail liquor stores may be open for any number of hours, but may not be open before 7 a.m. or after 10 p.m. Sunday and holiday openings are optional for Retail Sales Agents.

Stat. Auth.: ORS 471, including 471.030, ORS 471.730(1) & (5)
Stats. Implemented: ORS 471.750(1)

Hist.: LCC 1-1978(Temp), f. & ef. 1-25-78; LCC 5-1978, f. 5-24-78, ef. 5-25-78; Renumbered from 845-010-0350; LCC 12-1983, f. 11-14-83, ef. 1-1-84; LCC 3-1985, f. 2-28-85, ef. 4-1-85; OLCC 4-2002(Temp), f. & cert. ef. 4-12-02 thru 10-8-02; OLCC 11-2002, f. 8-29-02, cert. ef. 10-9-02; OLCC 2-2003, f. 1-27-03, cert. ef. 2-1-03, Renumbered from 845-015-0035; OLCC 16-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04

Oregon State Lottery Chapter 177

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Rules Adopted: 177-051-0000, 177-051-0010, 177-051-0020, 177-051-0030, 177-051-0040, 177-051-0050, 177-051-0060, 177-051-0070, 177-051-0080, 177-051-0090, 177-051-0100, 177-051-0110, 177-051-0120, 177-051-0130

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

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-051-0000

Purpose

The purpose of this Division of OAR chapter 177 is to authorize and set forth the provisions for promotions and giveaways that the Oregon Lottery may conduct from time to time. The rules in this Division do not apply to promotions conducted by Lottery retailers or incentive programs that the Lottery may conduct for Lottery retailers.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0010

Definitions

For purposes of division 51, the following definitions apply except as otherwise specifically provided in OAR chapter 177, or unless the context requires otherwise:

(1) "Drawing" means a certain type of promotion in which the Lottery randomly selects a winner from among entrants in order to award a prize to the person whose entry is selected.

(2) "Entry requirements" means the additional instructions that specify how to enter a specific promotion, which the Lottery makes available at the website or other points of entry.

(3) "Electronic entry" means an entry in a promotion that is submitted using a computer and connecting to a website through the Internet.

(4) "Giveaway" means an item given by the Lottery to a person as a means of promoting the Lottery.

(5) "Promotion" means an activity involving the distribution of prizes among individuals that directly or indirectly promotes the sale of Lottery tickets or shares. A promotion includes, but is not limited to, drawings and second chance drawings.

(6) "Second chance drawing" means a promotion conducted by the Lottery in which an entrant must possess a non-winning Oregon Lottery ticket from a Lottery game identified by the Lottery in the entry requirements.

(7) "Website" means the Oregon Lottery's Internet address at www.oregonlottery.org, or any other website that may be specified by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0020

Giveaways

From time to time, the Lottery may provide giveaways to members of the public that do not require a prior purchase. A person may be required to provide information or engage in a promotional activity to receive a giveaway. No person may claim a right to receive a giveaway item.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0030

Promotions

From time to time, the Lottery may conduct promotions that involve the distribution of prizes among individuals that directly or indirectly promote the sale of Lottery tickets or shares. The Lottery also may conduct second chance drawings that require a prior purchase from the Lottery by an entrant. The Lottery may also conduct drawings that require no prior purchase from the Lottery by an entrant.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0040

Eligibility

(1) Requirements: To be eligible to win a prize in a Lottery promotion, a person must meet the following requirements:

(a) Be present in Oregon at the time of entry in the promotion if it is a second chance drawing;

(b) Be a natural person 18 years of age or older, unless a specific promotion requires the entrant to be 21 years of age or older;

(c) Must not be:

(A) An employee or representative of the Oregon State Lottery, or the spouse, child, brother, sister, or parent of any such employee or representative;

(B) An employee or representative of the Oregon State Police, Gaming Enforcement Division; or

(C) A Lottery vendor who is prohibited by contract with the Lottery from participating in the promotion or is prohibited from playing Oregon Lottery games.

(d) Submit an entry with the required information provided accurately in all blanks on the form whether manually or electronically. Illegible entries are not valid. All entry forms must be submitted by the deadline specified in the promotion.

(2) Disqualification: If at any time the Lottery determines that a person who submitted an entry in a promotion does not meet the requirements listed above, that person is disqualified. If the Lottery determines that a person is disqualified before any drawing is held, any entries submitted by that person are void and shall be removed from the drawing or disregarded. A person who receives a prize in a promotion, and is later disqualified, forfeits any prize won in that promotion.

(3) Multiple Names: Each entry must contain only one entrant's name. An entry with multiple names on it is not valid.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200

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Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0050

Promotion Entries

(1) Entry Instructions: A player may enter certain promotions by following the instructions in the entry requirements provided for that promotion. This may include, but is not limited to, using the website, mailing an entry, or delivering an entry to the Lottery headquarters in Salem, Oregon, or another location as specified by the Lottery in the entry requirements. Entries must be received by the Lottery before the deadline specified in the entry requirements.

(2) Miscellaneous: All entries submitted to the Lottery become the property of the Lottery. Entries will not be returned to entrants. Entries submitted for one promotion will not be entered into any other promotion by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0060

Internet Entries

(1) Internet Entry: In addition to the requirements of OAR 177-051-0040 and 177-051-0050, a player may enter certain promotions by visiting the website and completing and submitting an electronic entry for any promotion that may be offered electronically at that time. To be eligible to win a prize in a promotion done through the Internet, a person must be an Oregon resident. An electronic entry may require the entrant's:

- (a) Name;
- (b) Address;
- (c) Telephone number (if available);
- (d) Date of birth;
- (e) Specific promotions may require that the entrant complete a questionnaire, and/or provide identifying information from a specified non-winning ticket to enter the promotion; and

(f) Any additional information as required by the Lottery to enter the promotion.

(2) Disputes: In case of a dispute as to the identity of a prize winner, the Lottery will deem an electronic entry to have been submitted by the person whose name appears on the electronic entry and who is able to present valid proof of identity that confirms the person's entry information.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0070

Mail or Walk-In Entries

(1) Mail Entries: Unless specified otherwise in the entry requirements, a person may enter certain promotions by mailing an entry to the Oregon Lottery at the address specified in the entry requirements. The entry requirements may specify the format required for mailed entries to be eligible such as using a postcard or a business envelope. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the promotion as specified by the Lottery. The Lottery will not accept postage due entries.

(2) Walk-In Entries: Unless specified otherwise in the entry requirements, a person may enter certain promotions by delivering an entry to the Oregon Lottery, 500 Airport Road SE, Salem, Oregon during the Lottery's business hours, Monday through Friday, 8:00 am to 5:00 pm PST, excluding observed holidays. Each entry must include any information requested in the entry requirements. The entry must be received by the deadline for the promotion as specified by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0080

Additional Requirements

(1) Second Chance Drawings in which a Ticket Must be Presented to Claim a Prize: If the Oregon Lottery conducts a second chance drawing which does not require that a non-winning Lottery ticket be submitted with the entry, an entrant must retain the original, non-winning ticket used to enter the promotion. If the ticket is included with the entry, the entry is void.

(a) An entrant must not mail or deliver the non-winning ticket to the Oregon Lottery before receiving notification that the entrant is a winner. If

selected as a winner, the entrant must present the Lottery with the original, non-winning ticket that includes the matching ticket identification number on the winning entry to receive a prize.

(b) The ticket identification number from a non-winning ticket shall only be used once by the person possessing that ticket. Any other entry by the same person, or a third party, using a duplicate number, is ineligible.

(2) Second Chance Drawings that Require a Ticket be Included with the Entry: The Lottery may conduct promotions that require the entrant to mail a non-winning Lottery ticket to the Lottery with the entry form as a condition of entry in the promotion.

(3) Limits on Entries: Unless a promotion provides otherwise, a person may enter a promotion as many times as desired, but each entry must be separately submitted.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0090

Prizes and Odds of Winning

(1) General: Prizes that will be awarded in a promotion will be identified on the website during the promotion or listed in the entry requirements.

(2) Motor Vehicles: If the prize is a motor vehicle, the Oregon Lottery may pay the initial license, title, and registration fees. Insurance, service contracts, and any other costs are the responsibility of the winner.

(3) Travel: If a prize involves travel, the Oregon Lottery shall pay applicable airfare and basic hotel lodging, and may provide a stipend for expenses. Unless otherwise specified in writing for a specific promotion, the Lottery will not pay any additional fees or expenses including, but not limited to, hotel taxes or fees, travel agent fees, or any other taxes, fees, or expenses that the winner may incur.

(4) Odds: The odds of winning a prize in a promotional drawing depend on the number of eligible entries received by the applicable deadline.

(5) Not Transferable: Prizes are not transferable. A prize winner may not assign the right to receive a prize. The Lottery will not make substitutions at the request of a winner.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0100

Selection of Winners

(1) Winners in certain promotions will be determined by random selection as stated in the entry requirements or on the website. Selection of winners will take place at the Lottery headquarters in Salem, Oregon or at any other location selected by the Lottery. Any drawing will be held within a reasonable time after the Lottery's deadline for entries in a promotion. The date and time of a drawing will be identified on the website or listed in the entry requirements.

(2) Lottery personnel will conduct drawings manually, or use a random number generator, or any other selection procedure that ensures random selection of winners.

(3) Winners in certain promotions that may involve an exhibition of skill will be determined by the Lottery. The Lottery shall verify the occurrence of any event used as the basis for selecting such winners.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.200

Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0110

Notification of Winners and Award of Prizes

(1) Top Prize: The Lottery will notify a top prize or grand prize winner of the prize by e-mail or telephone, and by certified mail. The effective date of notification is the date the certified mail is sent by the Lottery to the winner.

(2) Other Prizes: The Lottery will notify other prize winners by e-mail, telephone, or certified mail. Notice is effective upon transmission of the e-mail, contact through telephone, or deposit in the U.S. mail.

(3) Time Limits: The Lottery will advise each winner of any time limitation in which the winner has to respond to the notification and claim the prize.

(4) Alternate Winners: If a top prize or grand prize winner is determined by the Lottery to be ineligible or the winner fails to respond within the time limitation set by the Lottery, the Lottery will notify an alternate

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winner. This practice will continue until the list of entrants is exhausted or an eligible winner responds or the prize expires.

(5) Forfeit Prizes: If any other prize winner is ineligible or fails to respond to the notification within the time limitation set by the Lottery, the prize is forfeited and will not be awarded to entrants in that promotion.

(6) Affidavit: As a condition of receiving any prize, the Lottery may require each winner to execute a prize claim form and an affidavit of eligibility.

(7) Identification: The Lottery may require that all prizes be claimed in person. The Lottery may require that a prize winner present valid proof of identity that confirms the person's entry information. If it does not, the person is ineligible to receive a prize.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0120

Limitation of Liability

(1) The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any late, lost, misrouted, garbled, distorted, or damaged entries or transmissions, any telephone, electronic, hardware, software, network, Internet, or other computer, or communications-related malfunctions or failures, any promotion disruptions, any printing or typographical errors in any materials associated with a promotion, any entries lost in the mail or delivered elsewhere, or other injuries, losses, or damages arising from, related to, or caused by a promotion, or any claims arising from or related to the acceptance, possession, or use of any prize.

(2) Participation in a promotion is voluntary. Promotions that require entrants to compete with other entrants, play games, or complete tasks, or any similar activities carry a risk of personal injury or death. Participation is at the entrant's own risk. The State of Oregon, its agents, officers, and employees and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any personal injury, loss, or consequential damage arising from, related to or caused by an entrant's participation in a promotional activity.

(3) In the event an entrant disagrees with the Lottery's determination as to the amount or nature of a prize, the validity of an entry, whether an entry is a winner, whether it was submitted in error, or whether an entrant has won a prize, the Lottery shall provide the person with the opportunity to enter another promotion, or shall provide the person a ticket or share from any current Lottery game. This is the person's sole and exclusive remedy.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

177-051-0130

Miscellaneous

(1) The decisions of the Director, including, but not limited to, the amount or nature of a prize, the validity of an entry, whether an entry is a winner, whether it was submitted in error, and whether an entrant has won a prize, are final.

(2) The Director may cancel or postpone any promotion at any time in the exercise of the Director's sole discretion. The Lottery shall provide notice on the website or at the point of entry for the promotion when a promotion is cancelled or postponed.

(3) In the event of a conflict between the provisions contained in the rules in this Division and entry requirements, the provisions of these rules control.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.200
Hist.: LOTT 5-2003(Temp), f. & cert. ef. 5-28-03 thru 11-21-03; LOTT 13-2003, f. & cert. ef. 9-29-03

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Adm. Order No.: LOTT 14-2003

Filed with Sec. of State: 9-29-2003

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Rules Amended: 177-100-0000, 177-100-0010, 177-100-0080, 177-100-0090, 177-100-0095, 177-100-0130, 177-100-0160, 177-100-0180, 177-100-0185

Rules Repealed: 177-100-0070, 177-100-0170

Subject: The proposed amendments update definitions, repeal two rules for redundancy, and make general housekeeping and grammar changes.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-100-0000

Video Lottery Game System

The Director may operate a video lottery game system using video lottery terminals approved under this Division.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4); ORS 461
Stats. Implemented: ORS 461.215, 461.217
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0010

Definitions

For purposes of division 100, the following definitions apply except as otherwise provided in OAR chapter 177, or unless the context requires otherwise:

(1) "Certification" means the inspection process used by the Lottery to approve video lottery terminals and games.

(2) "Decal" means the stamp displayed by the Lottery upon a video lottery terminal to provide notice that the terminal is authorized by the Lottery.

(3) "Display" means the visual presentation of video lottery game features shown on the screen of a video lottery terminal.

(4) "Gray machine" has that definition as defined in ORS 167.117(9).

(5) "Manufacturer" means any individual, partnership, corporation, trust, association, joint venture, limited liability company, or other business entity that manufactures, assembles, or produces video lottery terminals or gray machines.

(6) "Video lottery" or "Video lottery game" means a lottery conducted through video lottery terminals that are monitored by a central computer system.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.215, 461.217
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0080

Certification Decal

(1) Each video lottery terminal certified for operation by the Lottery must bear a certification decal and must conform to the specifications of the prototype terminal of the same model that has been tested and certified by the Lottery.

(2) No person other than an authorized Lottery employee or agent may affix or remove a decal. The placement of the decal represents that the terminal has been certified, inspected, and approved for operation in Oregon.

(3) No terminal may be transported out of Oregon until the decal has been removed.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4); ORS 461
Stats. Implemented: ORS 461.215, 461.217 & 461.330
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0090

External Terminal Specifications and Age Restriction Requirements

(1) Terminals operated by the Lottery may only display information on the screen or terminal housing that has been approved by the Lottery.

(2) At no time may any person place stickers or other removable devices on the terminal for any reason.

(3) Each terminal must display an Oregon Lottery logo.

(4) The following age restriction notice must clearly be displayed on the terminal:

"No person under 21 years of age may play" or "Must be 21 years of age or older to play" or "Anyone under 21 years of age must not play".

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4); ORS 461
Stats. Implemented: ORS 461.215 & 461.217
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0095

Procurement of Terminals

(1) Only the Lottery shall possess and operate terminals in Oregon.

(2) The Lottery may select and procure terminals as necessary by contracting with manufacturers approved pursuant to OAR chapter 177, division 35, and may provide the terminals to video lottery retailers.

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Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0130

Duties of Manufacturers

Manufacturers, their employees, representatives, and agents shall:

(1) Promptly report to the Lottery any violation or any facts or circumstances that may result in a violation of ORS Chapter 461 or these rules.

(2) Provide immediate access to all records and the entire physical premises of the business for inspection at the request of the Lottery or its auditors.

(3) Not conduct any advertising or promotional activities in Oregon (or directed at Oregon residents) that are false or misleading regarding video lottery games.

(4) Promptly report to the Lottery their knowledge or suspicion of any gray machine located within Oregon.

(5) Attend all trade shows or conferences as required by the Lottery.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.215, 461.217, 461.400
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0160

Transportation of Video Lottery Terminals Within, Into, or Through Oregon

(1) No person shall ship or transport video lottery terminals within or into Oregon without first obtaining a written authorization for transport from the Director. Transporting or shipping within Oregon means the starting point of a trip is within the boundaries of the state and the termination point is either within or outside the boundaries of the state. Transporting or shipping into Oregon means the starting point of a trip is outside the boundaries of the state and terminates within the boundaries of the state.

(2) No person shall ship or transport video lottery terminals through Oregon without first obtaining a written authorization from the nearest port of entry immediately upon arrival in the state. Transporting or shipping through Oregon means the starting point and termination point of a trip are outside the boundaries of the state and the route between the starting and termination points enters the state.

(3) Notwithstanding section (1) of this rule, authorization to transport a video lottery terminal within or into Oregon for purposes of display or demonstration at a trade show conducted within the boundaries of the state must be obtained as described in OAR 177-010-0120.

(4) The written authorization required under sections (1) and (2) of this rule shall include:

- (a) The manufacturer of each terminal being transported;
- (b) The model and serial number of each terminal being transported;
- (c) The full name, address, and telephone number of the person or establishment from which the terminals were obtained;
- (d) The full name, address, and telephone number of the person or venue to whom the machines are being sent or transported; and
- (e) The dates of shipment or transport within, into, or through the state.

(5) At all times, a copy of the written authorization shall accompany the terminal or terminals in transport.

Stat. Auth.: Or. Const. Art. XV, Sec. 4 & ORS 461
Stats. Implemented: OL 1999, Ch. 193 & ORS 461.215
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 12-1999(Temp), f. & cert. ef. 12-27-99 thru 6-20-00; LOTT 3-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0180

Instate Manufacturing of Gray Machines Shipped Out-of-State

(1) A manufacturer shall apply to the Director of the Oregon Lottery for approval to manufacture or service gray machines within Oregon.

(2) The Director shall approve the manufacture or service of gray machines within the state of Oregon only if the manufacturer intends to export the gray machines to another state or jurisdiction where they are legal. The Director shall require a manufacturer to cite the law of the jurisdiction that makes them legal, and may require additional evidence that operation of the gray machines is lawful in that jurisdiction.

(3) The manufacturer is subject to the same disclosure requirements required of an applicant for a major procurement. The manufacturer shall reimburse the Lottery for the costs of all background investigations.

(4) A manufacturer's premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery a monthly report listing the types and numbers of gray machines manufactured, the types and number in storage, the number of shipments, destinations of all shipments, and methods of shipment, including carrier used. Shipment or transport of gray machines outside of Oregon also must comply with OAR 177-100-0160.

(5) The Director may issue temporary approval for the manufacture of gray machines upon submission and satisfactory review of the following information:

- (a) The information required by ORS 461.410(1);
- (b) The manufacturer's written statement of the proposed use of the gray machines;
- (c) A citation of the law that states such use is legal; and
- (d) The identity of the individuals or entities that have expressed an interest in purchasing, leasing, or operating the gray machines.

(6) If the Director issues a temporary approval, it is effective for no longer than 180 days.

(7) The Director may cancel any approval if the Director determines that the manufacturer has failed to adhere to the conditions required for approval of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be cancelled if the transaction for which approval was issued is not completed within a reasonable period and no other purchaser, lessor, or operator has been found.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 167.117 & ORS 167.164
Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

177-100-0185

Instate Manufacturing of Video Lottery Terminals Operated in Oregon

(1) A manufacturer of video lottery terminals approved by the Lottery for the Lottery's own use under OAR chapter 177, division 35, may manufacture such terminals in Oregon.

(2) The Director may issue temporary approval for the manufacture of video lottery terminals upon submission and satisfactory review of the following information:

- (a) The information required by ORS 461.410(1);
- (b) The manufacturer's written statement of intent to manufacture video lottery terminals to be operated in Oregon solely by the Lottery; and
- (c) A copy of a letter or other document from the Lottery expressing an interest in purchasing video lottery terminals from the manufacturer.

(3) If the Director issues a temporary approval, it shall be effective for no longer than 180 days.

(4) No video lottery terminal shall leave the premises of the approved manufacturer until it is shipped to a destination authorized by the Lottery.

(5) All video lottery terminals whose manufacture has been approved by the Lottery shall be operated only under the authority of the Lottery.

(6) A manufacturer's premises, and all production, shipping, service, and financial records, shall be made available for routine and unannounced inspections and audits by the Assistant Director of Security. A manufacturer shall provide to the Lottery a monthly report listing the types and numbers of terminals manufactured, the types and number in storage, the number of shipments of these terminals, the destinations of all shipments, and methods of shipment, including carrier used.

(7) The Director may cancel any approval if the Director determines that the manufacturer has failed to adhere to the conditions required for approval of the manufacturer or otherwise poses a threat to the integrity, security, or honesty of the Lottery. Approval also may be revoked if the Lottery does not enter into a contract with the manufacturer for the purchase of the video lottery terminals within a reasonable period, or if such a contract is cancelled.

(8) Notwithstanding sections (1) through (3) of this rule, any Oregon manufacturer who has previously submitted a bid in response to a request for proposal issued by the Lottery may continue to perform video lottery terminal research and development. If the manufacturer is not successful in providing video lottery terminals in any subsequent request for proposal issued by the Lottery, the Director may cancel the manufacturer's approval to manufacture video lottery terminals.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 167.117 & ORS 167.164
Hist.: LC 7-1991(Temp), f. & cert. ef. 10-28-91; LC 8-1991, f. & cert. ef. 11-25-91; LC 13-1992, f. & cert. ef. 10-29-92; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 6-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 14-2003, f. & cert. ef. 9-29-03

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Adm. Order No.: LOTT 15-2003
Filed with Sec. of State: 9-29-2003
Certified to be Effective: 9-29-03
Notice Publication Date: 7-1-03

Rules Adopted: 177-200-0005, 177-200-0011, 177-200-0012, 177-200-0032, 177-200-0055, 177-200-0065, 177-200-0080, 177-200-0090

Rules Amended: 177-200-0000, 177-200-0010, 177-200-0015, 177-200-0020, 177-200-0050, 177-200-0060, 177-200-0070

Rules Repealed: 177-200-0030, 177-200-0040

Subject: The amendments update the rules covering authorized video lottery games, game requirements, game play price, payment of video lottery game cash slips, method of determining winners, requirement for randomness testing, requirements for percentage payout and requirements for poker games. New sections adopted include definitions, accuracy of wagers, ownership of cash slips, retailer payment credit/debit, requirements for randomness testing, video lottery game management, discharge of Lottery from liability and governing law. Two rules are repealed for redundancy. Other changes include general grammar and housekeeping.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-200-0000

Authorized Video Lottery Games

Video lottery terminals operated by the Lottery may offer any type of video lottery games authorized by the Oregon State Lottery Commission.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0005

Definitions

For purposes of Division 200, the following definitions apply except as otherwise provided in OAR Chapter 177, or unless the context requires otherwise.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0010

Game Requirements

(1) To play a video lottery game, a player deposits cash into a video lottery terminal that displays the deposit as a number of credits to which the player is entitled. Each credit represents an amount not to exceed \$.25 depending on the specific game. The player purchases a game play by wagering one or more credits. A prize for a winning wager shall not exceed \$600. Prizes are paid on the terminal in the form of credits. A player may wager the credits that the player has won on additional game plays or may direct the terminal to issue a cash slip for the remaining credits.

(2) In addition to the prizes paid as credits, and depending on the specific game, bonus game plays may be awarded to a player. A prize awarded on an individual bonus game play is independent of the original game play and may not exceed \$600.

(3) A close approximation of the odds of winning some prize for each game must be displayed on a video lottery terminal screen. Each game also must display the amount wagered and the amount awarded for each possible winning occurrence based on the number of credits wagered on a game play.

(4) Each game shall provide a method for a player to view payout tables for that game.

(5) A player must be at least 21 years of age.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.210

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0011

Accuracy of Wagers

It is the sole responsibility of a player to verify the accuracy of a wager placed on a video lottery terminal by the player. The Lottery is not responsible for any wager placed in error. The Lottery shall not cancel wagers or provide refunds.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0012

Ownership of Cash Slips

(1) Until such time as an individual's name is imprinted or placed upon a cash slip, a cash slip is a bearer instrument and is owned by the bearer of the cash slip. The bearer may be the person to whom the cash slip is issued by a video lottery terminal or a person to whom the cash slip is delivered for the purpose of giving that person the right to redeem the cash slip. A person who obtains possession of a cash slip by theft, fraud, or other illegal means is not a bearer.

(2) When a name is placed upon a cash slip, the cash slip ceases to be a bearer instrument, and the individual whose name appears on the cash slip is the owner of the cash slip. A cash slip that bears a name may not be transferred to any other person for the purpose of redeeming the cash slip.

(3) Only a natural person may own a cash slip and claim payment for it.

(4) Multiple individuals may not jointly own, possess, or claim payment as owners of a cash slip. More than one name shall not be placed on a cash slip. If more than one name appears on a cash slip, the individual whose name was first placed on the cash slip is the owner of the cash slip.

(5) The Lottery may delay payment on a cash slip in order to conduct an investigation to verify ownership of a cash slip.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0015

Game Play Price

The price of a game play for a video lottery game shall be clearly displayed on the terminal screen during play. The minimum wager is one credit.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461.210, ORS 461.220, ORS 461.230, ORS 461.240, ORS 461.250, ORS 461.260 & ORS 962, OL 1991 (enrolled HB 3151)

Stats. Implemented: ORS 461.240

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0020

Payment of Video Lottery Game Cash Slips

(1) Original Cash Slip: An original cash slip is the only valid receipt for claiming prizes or for redeeming credits remaining on a terminal. A copy of a cash slip has no pecuniary or prize value and does not constitute evidence of a cash slip.

(2) Retailer Validation Requirements: A retailer shall pay a cash slip only if:

(a) The player presents the cash slip for payment at the retailer location that issued the cash slip.

(b) The player is a person 21 years of age or older and authorized to play under these rules or Oregon statutes.

(c) The cash slip is presented to the retailer within 28 days of the date it was properly issued.

(d) It is intact and legible and meets all the Lottery's security requirements.

(e) It is not stolen, counterfeit, fraudulent, lacking the correct captions, altered, or tampered with in any manner.

(f) The information appearing on the cash slip corresponds with the computer record of the cash slip data recorded in the Lottery's central computer system.

(g) It has not been previously paid.

(3) Retailer Validation Exception: If a cash slip is presented for payment, and the cash slip meets the requirements of sections (1) and (2) of this rule, except the cash slip is not intact or legible, the cash slip may nevertheless be paid by the retailer as follows:

(a) Software Validation: Upon notification by a player that a video lottery terminal issued a cash slip that is not intact or legible, the retailer shall request a validation number from the terminal. If the retailer is able to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player, then the retailer shall validate the cash slip through the validation terminal and pay the player.

(A) Software Validation Report: If the retailer pays the player pursuant to section (3)(a) of this rule, the retailer must complete a Retailer Software Validation Report signed by the player and the retailer. The retailer must retain the report for one year. The retailer must group the reports by month and must make them available for audit by the Lottery immediately

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upon request. The retailer must retain and attach the damaged or illegible cash slips to the reports.

(b) Validation Number Unavailable: If the retailer is unable to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player as required by subsection (3)(a), the player may request payment of the cash slip from the Lottery as provided in section (5) of this rule.

(4) Lottery Validation Requirements: Payment of a cash slip may be made at the Oregon Lottery, Player Services, 500 Airport Road SE, Salem, Oregon. The cash slip presented for payment must meet all of the requirements in sections (1) and (2) of this rule and must be delivered to the Lottery in person or by mail at P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended) before 5:00 P.M. within one year of the date that the cash slip was issued. If the final day of the one-year claim period falls on a weekend or an official Lottery holiday, the claim period shall be extended to the next Lottery business day at 5:00 P.M.

(5) Lack of Cash Slip or Validation Number: If a player does not have a cash slip, or a retailer was unable to obtain a validation number, the Lottery will conduct an investigation of a claim presented for payment to the Lottery. The investigation will determine the reasons or causes for the failure of the terminal to produce a cash slip or to print an intact and legible cash slip, and why the retailer was unable to obtain a validation number.

(a) Payment: The Lottery may pay the claim if the Lottery can determine from its investigation that the credit was on the terminal identified by the player at the time claimed, and that no cash slip has been paid on the claim.

(b) Signed Statement: The Lottery will not pay any such claim without a signed statement by a player. The player's statement must contain game play information that can be compared to data in the Lottery's central computer system that substantiates that the player won a prize in the amount and at the time claimed, and information from which the Lottery reasonably can determine that the claim has not been paid.

(6) Lottery Validation Exceptions: If a cash slip cannot be validated because the cash slip data is not recorded on the Lottery's central computer system, the Director may still authorize payment if:

(a) The Lottery conducts an investigation of the claim, and

(b) The Director concludes that the claimant was an authorized player and that the absence of a record of the cash slip data in the Lottery's central computer system was the result of either a technical problem in the video lottery terminal or a communications problem that prevented the recording of the credits in the Lottery's central computer system.

(7) Subsequent Claims: If a cash slip paid by a retailer is later submitted for payment to the Lottery, the Lottery may pay the cash slip and debit the retailer's account for the amount of the cash slip. The Lottery will conduct an investigation in accordance with section (5) of this rule to determine that the Lottery properly may make payment.

(8) Withholding of Payment: The Lottery may withhold payment of any cash slip claim presented to it until the expiration of the 28-day prize claim period at the retailer's location or until the completion of any investigation by the Lottery to determine if payment is proper.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 4-1997, f. & cert. ef. 4-25-97; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0032

Retailer Payment Credit/Debit

(1) Retailer Payment Credit/Debit: Except for cash slips that are presented for payment to the Lottery and which have not been recorded in the Lottery's central computer system, the amount of any cash slip paid by the Lottery at its headquarters shall be debited from the electronic funds transfer (EFT) account of the retailer from which the prize was won unless the retailer's account has already been debited under section (2) of this rule. Prizes paid by the retailer upon a validated cash slip shall be credited to the retailer's EFT account. Prizes that are paid by a retailer but not validated at the time of payment shall be credited to the retailer's account if payment is authorized under OAR 177-200-0020(1) and (2).

(2) Automatic Debit of Unclaimed Prizes: If a cash slip is not redeemed within 28 days of the date it was issued, the Lottery will charge back the amount of the cash slip to the retailer's account.

(3) Limitation on Redemption Location: A retailer shall only redeem cash slips for prizes awarded on terminals located on its premises. If a retailer redeems a cash slip from another location, the Lottery will not credit the retailer's EFT account for the payment.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0050

Method of Determining Winners

Each video lottery terminal must have a random number generator that will determine the occurrence of a specific card, symbol, or number to be displayed on the video screen during a game play. A selection process will be considered random if it meets the requirements of OAR 177-200-0055.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.217

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0055

Requirements for Randomness Testing

(1) Chi-Squared Analysis: Each card position, symbol position, or number position must satisfy the 99 percent confidence limit using standard chi-squared analysis. For purposes of this rule, chi-squared analysis is the sum of the squares of the difference between the expected result and the observed result. Card position means the first card dealt, second card dealt in sequential order, up to the last card dealt. Symbol position means the first symbol drawn, second symbol drawn in sequential order, up to the last symbol drawn. Number position means first number drawn, second number drawn in sequential order, up to the 20th number drawn.

(2) Run Test: Each card position, symbol position, or number position must not produce a significant statistic with regard to producing patterns of occurrences. For purposes of this rule, the run test is a mathematical statistic that determines the existence of recurring patterns within a set of data. Each card, symbol, or number position will be considered random if it meets the 99 percent confidence level with regard to the run test or any similar pattern-testing statistic.

(3) Correlation Test: Each card position, symbol position, or number position must be independently chosen without regard to any other card, symbol, or number drawn within that game play. This test is the correlation test. Each pair of card, symbol, or number positions is considered random if it meets the 99 percent confidence level using standard correlation analysis.

(4) Serial Correlation Test: Each card position, symbol position, or number position must be independently chosen without reference to the same card, symbol, or number position in the previous game. This test is the serial correlation test. Each card, symbol, or number position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

(5) Outside Influences: The random number generator and selection process must be impervious to influences from outside devices including, but not limited to, electromagnetic interferences, electrostatic discharge, and radio frequency interferences.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461

Stats. Implemented: ORS 461.215, ORS 461.217

Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0060

Requirements for Percentage Payout

The maximum payout percentage for the Lottery's video lottery games is 96 percent. Extended play games may exceed this number.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LC 3-1996(Temp), f. & cert. ef. 3-27-96; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0065

Video Lottery Game Management and Sales Requirements

(1) Video Game Management: The Director of the Lottery shall manage the video lottery games installed on its video lottery terminals pursuant to ORS 461.200. The Director may revise the Lottery's video lottery games at any time and in any manner authorized by the Commission. The Lottery is under no obligation to continue to operate existing games and may initiate new or revised games at any time.

(2) Retailer's Sales: A retailer's sales of all lottery tickets and shares and sales of non-lottery products are the prime factors considered by the Lottery in managing the games installed on its video lottery equipment. A

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retailer's sales from video lottery games must comply with the provisions of OAR 177-040-0017 or 177-040-0061 and 177-045-0030.

(3) **Removal of Games:** The Lottery may furnish or remove video games from equipment on a retailer's premises at any time for any reason. The Lottery may limit the amount of time that a game is available at any time for any reason.

(4) **Test Equipment:** With the consent of the retailer, the Lottery may test new or revised games on its equipment on a retailer's premises.

(5) **Operation of Other Laws:** This rule does not preclude the Lottery from removing any or all of its games installed on its equipment or limiting the time or hours the games are operational pursuant to any other applicable law or contract provision.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.215, ORS 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0070

Requirements for Poker Games

Video lottery terminals offering poker games must meet the following requirements:

(1) Standard decks of 52 playing cards shall be used. Jokers may be added to the decks if the resulting payout percentages meet the requirements of OAR 177-200-0060.

(2) Before each deal, the deck must be shuffled randomly and frozen. All cards used for play must be taken in order from the top of the deck. All cards needed for play must be stored in the non-volatile memory of the video lottery terminal. Non-volatile memory is a device that stores information that cannot be erased or destroyed when power is disconnected to the video lottery terminal. The manufacturer need not represent the whole deck in memory. Shuffling is the process of generating the cards possibly used in the play and may be conducted in any manner that satisfies the randomness tests in OAR 177-200-0055.

(3) The program must deal the first cards in the order they are contained in the shuffled deck to the player. For draw poker games or hands, the player must have the option to hold or discard one or more of the cards initially drawn according to the game design. Any autohold features that assist players in their decision as to which of the cards to hold and discard for the chance to obtain a winning combination must be displayed. Any cards that are discarded must be replaced by the remaining cards in the deck by a predefined process that draws any additional cards in the order they are contained in the shuffled deck.

(4) If the initial cards dealt constitute a winning hand or hands according to the game's pay table, the video lottery terminal must automatically notify the player of the winning hand or hands, display the kind of hand (e.g., one pair, two pair, three of a kind), and the potential prize amount.

(5) At the conclusion of each game play, the video lottery terminal must display the winning combinations, if any, and the amount won.

(6) An extended play option may be included as long as a prize won under that option does not exceed \$600.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0080

Discharge of Lottery from Liability

(1) The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are discharged of all liability upon award of a prize, or, if a cash slip is presented to the Lottery for payment, upon payment of the cash slip. The State of Oregon, its agents, officers, and employees, and the Oregon State Lottery Commission, its agents, officers, and employees, are not liable for any terminal malfunction nor are they liable for the payment of any cash slip presented to a retailer for payment.

(2) The Director's decisions and judgments regarding award of a prize and the payment of a cash slip are final and binding. If a question arises as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Lottery may deposit any prize winnings into an interest-bearing escrow fund until it resolves the controversy, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. All interest that may accrue while the prize winnings are on deposit in an interest-bearing fund is and remains the property of the Lottery.

(3) In the event a dispute occurs between the Lottery and a player as to the amount of a prize, the amount of a cash slip, or whether a video lottery terminal malfunctioned, the Director may replace the disputed wager

with one of equivalent value. This is the player's sole and exclusive remedy. The Director's decision is final.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.215, ORS 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

177-200-0090

Governing Law

(1) By playing a game on a video lottery terminal, a player agrees to abide by and comply with Oregon law, including the statutes and administrative rules governing video lottery games and terminals that are in effect and as may be amended, and any additional terms and conditions that may be found on the cash slip. In the event of a conflict between any additional terms and conditions on a cash slip with the Lottery's rules, the rules control.

(2) All materials distributed by the Lottery for playing video lottery games are to be used solely for playing the video games permitted under these rules. Any use or reproduction of the materials for purposes other than those permitted by these rules may constitute a violation of Oregon gambling laws.

(3) All decisions of the Director regarding video lottery games are final.

Stat. Auth.: Or. Const. Art. XV, Sec. 4(4), ORS 461
Stats. Implemented: ORS 461.215, ORS 461.217
Hist.: LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thur 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03

Oregon Youth Authority
Chapter 416

Adm. Order No.: OYA 7-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 6-1-03

Rules Amended: 416-320-0000, 416-320-0010, 416-320-0020, 416-320-0030

Subject: The OYA has amended this rule to update language and reorganize its rule division.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-320-0000

Purpose

These rules describe the process OYA staff will use to issue and cancel arrest orders and All Points Bulletins.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.905 – ORS 420.915
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0010

Definitions

(1) "All Points Bulletin (APB)" is sent to Oregon law enforcement agencies to advise them that an offender has escaped from a close custody facility or is absent without authorization from parole status in the community. The bulletin gives details about the offender.

(2) "Arrest orders" are signed by a Superintendent/Camp Director. They have the full force and effect of a warrant to grant any police or peace officer in the state authorization to arrest and detain the offender described in the order.

(3) "Law Enforcement Data System (LEDS)" is a telecommunication information system for the use of law enforcement and criminal justice agencies to record and provide information regarding APBs and arrest orders.

(4) "Warrant" is issued by a judicial court and authorizes any police or peace officer to arrest and detain the offender described in the order.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420, ORS 420A
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0020

Placement of APBs and Arrest Orders

(1) OYA will issue an ABP and arrest order when any offender:

(a) Escapes from a close custody facility;

(b) Is absent without authorization from supervision in the community; or

(c) When conditions of parole have been violated.

(2) The Parole/Probation Supervisor, or designee, will request that the facility Superintendent/Camp Director, or designee, place the APB or arrest

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order; or the Parole/Probation Supervisor, or designee, may instead ask the committing court to place a warrant.

(3) Prior to sending an APB or placing an arrest order, OYA staff will ensure that reasonable grounds exist for doing so.

(4) Whenever an APB or arrest order is requested, the name and address of the person or agency to whom it was sent will be recorded in an alphabetical card file at the OYA facility.

(5) When the offender has been detained, the OYA will immediately contact the placing facility or court to cancel the request.

(6) The facility Superintendent/Camp Director, or designee, will receive a report of active APB's and arrest orders from LEDS, and will forward a copy of that report within two working days to all persons who requested the APB or order. Any that are no longer valid will be immediately canceled.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.905 – ORS 420.915
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

416-320-0030

Exceptions

These rules do not apply to offenders placed in OYA supervision via an interstate compact, to offenders placed in OYA facilities by the Department of Corrections, or to offenders transferred to a youth correctional facility from a county sheriff. If an APB or arrest warrant is necessary in one of these cases, the OYA will immediately notify the appropriate party (interstate compact administrator, Department of Corrections, or county sheriff).

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420, ORS 420A
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03

Adm. Order No.: OYA 8-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 6-1-03

Rules Amended: 416-800-0000, 416-800-0010, 416-800-0020, 416-800-0050, 416-800-0060

Subject: This rule was amended to add specifications for criminal history checks for contracted service providers who work with offenders and community work projects employers.

Rules Coordinator: Kimberly Walker—(503) 378-3864

416-800-0000

Purpose

(1) The OYA seeks to ensure the security and safety of its close custody facilities, and reduce or eliminate the risk of exploitation and/or abuse of offenders placed in its custody. In keeping with these values, the OYA will screen the criminal histories of persons who seek access to OYA facilities and/or offenders.

(2) The purpose of the criminal history check will be to determine whether a subject individual has been convicted of, or adjudicated delinquent on, a crime that is substantially related to the qualifications, functions, duties or responsibilities of the position for which the person is applying.

(3) These rules detail how the OYA accesses criminal offender information and uses it in the screening process for persons seeking to become:

- (a) OYA employees, volunteers, or youth offender foster parents;
- (b) Contracted service providers who work with offenders; or
- (c) Community work project employers.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 181.010, ORS 181.066, ORS 181.511 – ORS 181.580; ORS 420A.010, ORS 420A.020
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03

416-800-0010

Definitions

(1) "Agency agreement" means a written agreement between the Oregon State Police (OSP) and a criminal justice designated agency authorized to receive criminal offender information, as defined by Oregon statute and administrative rule. The agreement specifies the terms and conditions of accessing and receiving Oregon computerized criminal history information to assure compliance with state and federal regulations.

(2) "Community work project" links offenders with short-term or project oriented work assignments in the community. Offenders are supervised by a community member during the work assignment or project.

(3) "Contracted service providers" are persons who have specialized skills, knowledge and resources in the application of highly technical or scientific expertise, or exercise professional, artistic or management discretion or judgment while working with offenders, including the following.

(a) Licensed residential treatment provider: A private child-caring agency that has been given the legal authority through a license issued by the Department of Human Services (DHS) to provide residential care or other similar services for offenders.

(b) Personal services contractor: An individual or business entity with whom the OYA enters into a contract for the provision of services to offenders, such as a licensed psychologist, a professional social worker, etc. It also includes employees of such individual or business entity.

(4) "Criminal history check" refers to the process used by the OYA to conduct criminal records background checks on persons, including computerized and/or fingerprint-based processes.

(a) "Computerized criminal history checks" refers to the access and use of automated or manual files, or associated systems available to the OYA as a criminal justice agency, through the Law Enforcement Data Systems (LEDS) including on-line information from the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System (NLETS).

(b) "Fingerprint-based criminal offender information" means criminal offender information compiled and maintained by the Bureau of Criminal Identification regarding persons who have been arrested for crimes where law enforcement agencies have submitted fingerprints and other identifying data as required by state and/or federal statutes, or as deemed appropriate by the submitting law enforcement agency, for the purpose of identification.

(5) "Criminal offender information" means records, including fingerprints and photographs, received, compiled, and disseminated for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement and release, and includes the OSP computerized criminal history system.

(6) "Employee" means an individual who holds a paid position with the OYA.

(7) "Information required" means all information requested by the OYA for processing applications, including fingerprints.

(8) "Subject individual" means a person who seeks to become an OYA employee, volunteer, or youth offender foster parent; contracted service provider working with offenders; or a community work project employer.

(9) "Visitors" are persons who have limited access to OYA facilities or programs, including one-time access or as persons involved in group projects and performances. These persons are not allowed contact with OYA offenders outside the sight and hearing of OYA staff, and are, therefore, exempt from these criminal history check rules.

(10) "Volunteers" are persons who, on a non-paid basis, provide service to the OYA. The provisions of OAR chapter 416, divisions 450 and 480 also apply.

(11) "Youth offender foster parents" are persons who are issued a certificate of approval by the OYA to operate a youth offender foster home (OAR chapter 416, division 530). For the purpose of this rule, youth offender foster parent applicants also include members of the household, as discussed in OAR chapter 416, division 530.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 181.010, ORS 181.066, ORS 181.511 – ORS 181.580; ORS 420A.010, ORS 420A.020
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03

416-800-0020

Process

(1) At the time of application, the OYA will notify persons if a criminal history check is required and whether subject individuals are required to provide processing fees for that purpose.

(2) In cases defined by OYA policy and procedure, a subject individual may be provided provisional access to OYA facilities or offenders following satisfactory completion of a computerized criminal history check, pending the results of a fingerprint-based check. If additional information results from the fingerprint-based check that precludes the subject individual from associating with offenders, the OYA will notify the subject individual that further access to OYA facilities and offenders is denied.

(3) Only OYA employees who have been fingerprinted and cleared by the OSP shall access or have access to criminal offender information pursuant to a valid agency agreement. All such information will be handled in

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compliance with the agency agreement and rules and procedures of the OSP relating to the criminal offender information.

(a) It is the responsibility of the OYA to assure strict compliance with federal and state laws, rules, and procedures regarding criminal offender information access and dissemination.

(b) Criminal information obtained from LEDS, OSP, FBI, NCIC, and/or NLETS will not be used for any purpose other than that for which it was obtained, or given to unauthorized persons or agencies. Any violation may cause immediate suspension of the OYA's authorization to access such information.

(4) Subject individuals will provide all information on forms provided or approved by the OYA and according to OYA policy, procedure, or contract language. Access to OYA facilities or offenders may be denied to persons who refuse to participate in the criminal history check process described in these rules.

(5) As part of the criminal history check process, the OYA may request that the subject individual consent to the use of his/her social security number.

(6) The OYA will request criminal offender information from OSP and the FBI.

(a) Evaluations of crimes will be based on Oregon laws in effect at the time of conviction or adjudication, regardless of the jurisdiction in which the conviction occurred.

(b) Under no circumstances will the OYA bar or refuse to employ, certify or approve a subject individual because of the existence or contents of a record that has been expunged.

(7) If the OYA denies an application, the OYA will provide its findings to the subject individual in writing.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 181.010, ORS 181.066, ORS 181.511 – ORS 181.580; ORS 420A.010, ORS 420A.020

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03

416-800-0050

Criminal History Review Process

(1) The OYA has determined that persons whose backgrounds contain convictions or adjudications of certain offenses increase the risk of exploitation and/or abuse of offenders in its custody, or compromise the safety and security of its close custody facilities. The OYA will deny access to offenders and/or facilities to persons with such backgrounds, as follows.

(a) Employment with the OYA.

(A) Applicants are subject to computerized and fingerprint-based criminal history checks conducted at the time of hire.

(B) Subject individuals whose criminal backgrounds include items noted in section 3 (a) and (b) of this rule will be denied opportunity for employment with the OYA.

(b) OYA volunteers or youth offender foster parents.

(A) Applicants are subject to computerized and fingerprint-based criminal history checks at initial application; followed by annual computerized checks.

(B) Subject individuals whose backgrounds include items from section 3 (a), (b) and (c) of this rule are prohibited from serving as a youth offender foster parent or volunteer.

(c) Personal service contractors.

(A) Applicants are subject to a computerized criminal history check prior to execution of a contract. If a contract is extended beyond a two-year period, the OYA may require a new computerized criminal history check.

(B) Subject individuals whose backgrounds include items from 3 (a) and (b) of this rule are prohibited from serving as a personal service contractor.

(C) In addition, subject individuals who are licensed to provide a service to offenders must comply with all professional licensing and ethical standards of that profession.

(d) Contracted residential treatment providers. Employees of licensed residential treatment programs are subject to the licensing agency's criminal history check rules, and must comply with all professional licensing or ethical standards of that profession.

(e) Community work project employers.

(A) Applicants are subject to a computerized criminal history check at the time of initial contact with the OYA and annually thereafter. Additional criminal history checks may be requested as deemed appropriate by OYA.

(B) Subject individuals whose backgrounds include items noted in section 3 (a) and (b) of this rule are prohibited from employing offenders.

(C) In addition, employers of offenders must agree to conditions of supervision supplied by the OYA.

(2) In addition, the OYA may limit any person's scope of access or duties based on information contained within the background check. Such limits will be documented in writing and signed by the subject individual, the person responsible to supervise or oversee the person, and an Assistant Director, or designee.

(3) Crimes to be considered:

(a) Convictions or adjudicated delinquent on serious person-to-person crimes within any jurisdiction, including juvenile court, and other crimes, including but not limited to:

(A) Murder, including aggravated murder or manslaughter, and solicitation to commit;

(B) Unauthorized sexual conduct, including but not limited to bigamy, incest, abuse, neglect, abandonment of a child, or sale or purchase of a child, or solicitation to commit; any conviction of offenses for which registration as a sex offender is required under federal or state statute; or any admission to a hospital or other facility in lieu of conviction for an offense for which registration as a sex offender is required under statute;

(C) Persons who are a perpetrator of sexual abuse as evidenced by a child protective service complaint, which was determined to be valid even if there was no successful criminal prosecution;

(D) Persons who have been convicted of or adjudicated delinquent in any jurisdiction, including juvenile court, of any felony conviction or any drug or alcohol-related charge within five years of application;

(E) Persons whose criminal histories include charges upon which no disposition has been made. Where possible, the OYA will seek further information to assess current status of the pending charges, and may require the subject individual to resolve such situations.

(b) Additionally, the OYA will assess the suitability of the subject individual to meet the qualifications of the position, as well as make a determination of the subject individual's moral fitness by reviewing the following.

(A) The severity and nature of the action of the entries on the subject individual's criminal history report, including:

(i) The number of arrests in the subject individual's history;

(ii) The time elapsed since the arrest(s);

(iii) The circumstances surrounding the arrest(s);

(iv) Whether the subject individual was charged or indicted for a crime related to the arrest;

(v) If applicable, whether the subject individual has participated in counseling, therapy, educational or employment opportunities since the arrest(s);

(vi) The relationship between the circumstances of the arrest and the subject individual's ability to meet the qualifications of the position; and

(vii) The person's age at the time of the offense.

(B) Moral fitness extends to 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 nation. The following are indicators of a lack of moral fitness.

(i) Illegal conduct involving moral turpitude.

(ii) Conduct involving dishonesty, fraud, deceit or misrepresentation.

(iii) Intentional deception or fraud in any application, examination, or other document.

(iv) Conduct that is prejudicial to the administration of justice.

(v) Conduct that adversely reflects on the person's fitness to perform in the position.

(vi) Persons who make a false statement about a conviction, including by act of omission on an application.

(vii) Dishonorable discharge from the armed forces.

(C) The subject individual's current status on probation or parole in the community.

(c) In addition, the OYA has determined that a history of arrests or restraining orders for the following activities may raise concerns about a subject individual's suitability to serve as a youth offender foster parent or volunteer.

(A) Spousal abuse or domestic violence.

(B) A crime against children, including abuse, neglect, or pornography.

(C) A crime involving violence, including rape, sexual abuse, manslaughter or homicide.

(D) Physical assault.

(E) Battery.

(F) Drug or alcohol offenses.

(G) Weapons-related offenses.

(H) Animal abuse.

Stat. Auth.: ORS 420A.025

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Stats. Implemented: ORS 181.010, ORS 181.066, ORS 181.511 – ORS 181.580; ORS 420A.010, ORS 420A.020
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03

416-800-0060

Exceptions

(1) In some instances when processing a subject individual's fingerprints, the OSP or FBI returns cards to the OYA as "unreadable." When this occurs, the OYA will request that the subject individual be fingerprinted for a second time and this second set of fingerprints processed as a new request.

(a) If the second set of fingerprints is also determined "unreadable," an Assistant Director, or designee, may approve an exception for the subject individual from the fingerprint process. If the exception is approved, the OYA will notify OSP of the "unreadable" status of the fingerprints and ask that the OSP process the record by the subject individual's name and date of birth, or other process as determined appropriate by the OSP.

(b) The resulting information returned by OSP will be considered the subject individual's criminal history record and used according to the standards of this rule.

(2) The OYA may assume another agency's criminal history approval of a subject individual so long as the approving agency's criteria meet or exceed OYA standards. The approval will be noted in OYA files and signed by an Assistant Director, or designee.

(3) Any exceptions to these rules will be approved in writing by an Assistant Director, or designee.

(4) Under no circumstances will an exception be allowed for an individual who has been convicted of an offense, or admitted to or retained in a hospital or other facility in lieu of conviction of an offense, for which registration as a sex offender is required under statute.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 181.010, ORS 181.066, ORS 181.511 – ORS 181.580; ORS 420A.010, ORS 420A.020

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03

Adm. Order No.: OYA 9-2003

Filed with Sec. of State: 9-23-2003

Certified to be Effective: 9-23-03

Notice Publication Date: 8-1-03

Rules Repealed: 416-390-0000, 416-390-0010, 416-390-0020, 416-390-0030, 416-390-0040, 416-390-0050, 416-390-0060, 416-390-0070, 416-390-0080, 416-390-0090, 416-390-0100, 416-390-0110, 416-390-0120, 416-390-0130, 416-390-0140, 416-390-0150, 416-390-0160, 416-390-0170, 416-390-0180, 416-390-0190, 416-390-0200, 416-390-0210, 416-390-0220, 416-390-0230, 416-390-0240, 416-390-0250, 416-390-0260, 416-390-0270, 416-390-0290, 416-390-0300, 416-390-0310, 416-390-0320, 416-390-0330, 416-390-0340, 416-390-0360

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

Rules Coordinator: Kimberly Walker—(503) 378-3864

Parks and Recreation Department Chapter 736

Adm. Order No.: PRD 6-2003

Filed with Sec. of State: 10-3-2003

Certified to be Effective: 11-1-03

Notice Publication Date: 6-1-03

Rules Amended: 736-010-0120

Subject: 1. Establish that extra vehicle day use parking permit for access to day use fee parks in the Oregon State Park system may only be purchased in conjunction with, and at the same time as, purchase of the 12 or 24 month pass.

2. Establish the Certificate of Approval to Provide Foster Care in Oregon as the only acceptable identification for waiver of fees for foster families in Oregon State Parks.

3. Establish, in rule, twenty-six parks where day use parking fees are required.

Rules Coordinator: Angie Springer—(503) 378-5516

736-010-0120

Day Use Parking Permit

(1) Purpose: Based on a program goal to manage increased visitor use of park areas and promote department financial self-sufficiency, the director may require a motor vehicle day use parking permit at selected parks.

(2) General Regulations:

(a) Parking permits are to be clearly displayed in the driver's inside lower left corner of windshield;

(b) Permits with a self-adhesive backing are to be affixed to the windshield;

(c) Permits are non-transferable and are assigned by vehicle license and registered owner(s).

(3) Day Use Parking Permit Fees:

(a) Daily Vehicle – \$3;

(b) 12-month Permit – \$25;

(c) 24-month Permit – \$40;

(d) Extra vehicle permits may be issued only in conjunction with, and on the same day as, the sale of a 12- or 24-month permit for additional vehicles registered to purchaser of 12-month Permit (maximum 2) – \$5 each; 24-month Permit (maximum 2) – \$10 each.

(e) The director shall establish a minimum allowable fee of \$1 for vendors who sell the 12-month and 24-month permits.

(f) The vendor's fee will be included in the price of the permit; no vendor fee shall be collected on extra vehicle permits.

(g) 12-month and 24-month permits may be sold by signed vendor agreement by both privately owned commercial vendors and non-profit associations affiliated with the Oregon Parks and Recreation Department;

(h) Non-profit cooperative associations affiliated with the Oregon Parks and Recreation Department under ORS 390.143, upon a signed vendor agreement with the Oregon Parks and Recreation Department, may retain fees in excess of the minimum vendor fee for use in funding interpretive programs in state parks and heritage areas.

(i) Only staff of the Oregon Parks and Recreation Department may issue duplicate permits in the event an original permit is lost, stolen, mutilated or is attached to an automobile upon its sale by the permit-holder.

(4) Foster parents and persons maintaining developmental disability child foster homes:

(a) Consistent with ORS 390.124, foster parents and persons maintaining developmental disability child foster homes may be issued a 12-month day use parking permit, free of charge, upon proper identification.

(b) The identification shall consist of a valid Certificate of Approval to Provide Foster Care in Oregon, issued by the Oregon Department of Human Services.

(c) The permit shall be valid for 12 months or until the expiration date of the Certificate of Approval to Provide Foster Care, whichever date is sooner.

(d) Free permits may only be issued by staff of the Oregon Parks and Recreation Department.

(5) Waivers, Reductions and Exemptions: For promotional purposes and to ensure access to state parks regardless of financial means, the director may:

(a) Waive day-use fees at all or some parks on certain days and/or for certain events.

(b) Grant free day-use permits or offer discounts as necessary to help promote the permit program or as awards.

(c) Issue permits at no cost or at a reduced fee in exchange for volunteer services, under policies adopted by the Commission.

(d) Waive day-use fees for vehicles with recreational passes issued by other government agencies as deemed appropriate.

(e) In consultation with the Commission and as provided for in OAR 736-010-0098(7), establish a fee for access to certain facilities in lieu of day use fee. Access fee shall not exceed the daily day use permit fee.

(6) The director may grant exceptions to the day-use permit requirement under the following circumstances:

(a) Emergency vehicles;

(b) Government vehicles on official business;

(c) Business and delivery vehicles on official business;

(d) Motor vehicles of current state park registered campers;

(e) Park concessionaires and their employees;

(f) Person entering the park to engage in specially permitted non-recreation activities;

(g) Park volunteers on duty in the park;

(h) Persons maintaining a foster home or a developmental disability child foster home as provided in ORS 390.124;

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(i) Disabled veterans or active duty military personnel as provided in ORS 390.124;

(j) Other persons as designated by the director.

(7) Parks Subject to Day-Use Fees: Parks at which a day use fee shall be charged include: Fort Stevens State Park, Cape Lookout State Park, Nehalem Bay State Park, Honeyman Memorial State Park (West side), Fogarty Creek State Recreation Area, Heceta Head Lighthouse, Shore Acres State Park, Milo McIver State Park, Viento State Park, Benson State Recreation Area, Dabney State Recreation Area, Historic Columbia River Highway State Trail, Mayer State Park, Rooster Rock State Park, Champoege State Heritage Area, Detroit Lake State Recreation Area, Fall Creek State Recreation Site, Silver Falls State Park, Jasper State Recreation Site, Mongold Day-use Area, Willamette Mission State Park, Tou Velle State Recreation Site, The Cove Palisades State Park, Tumalo State Park, Smith Rock State Park, Farewell Bend State Recreation Area.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

Hist.: 1 OTC 17, f. 12-20-73; 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 11-1986, f. & ef. 7-9-86; PR 1-1988, f. & cert. ef. 3-25-88; PR 1-1990, f. & cert. ef. 5-14-90; PR 4-1991, f. 4-30-91, cert. ef. 5-13-91; PR 3-1996, f. & cert. ef. 5-13-96; PRD 7-2002, f. & cert. ef. 7-1-02; PRD 6-2003, f. 10-3-03 cert. ef. 11-1-03

Adm. Order No.: PRD 7-2003

Filed with Sec. of State: 10-3-2003

Certified to be Effective: 10-3-03

Notice Publication Date: 8-1-03

Rules Amended: 736-030-0010

Subject: The proposed rule amendment will change the existing regulations for dogs on the ocean shore within the City Limits of Cannon Beach. Currently, dogs are prohibited on the ocean shore within Cannon Beach except on a maximum six-foot leash. Under the proposed amendment, dogs would be prohibited except on a maximum six-foot leash or under voice or signal command.

Rules Coordinator: Angie Springer—(503) 378-5516

736-030-0010

Prohibition of Dogs Off Leash

Dogs are prohibited except on a leash or under voice or signal command on the ocean shore within the city limits of Cannon Beach, Seaside and Rockaway Beach. The owner is responsible for the animal's behavior and physical control while on the beach.

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.124 & ORS 390.660

Hist.: PR 11-1994, f. 11-29-94, cert. ef. 12-1-94; PR 3-1997, f. 11-5-97, cert. ef. 11-10-97; PRD 7-2003, f. & cert. ef. 10-3-03

Adm. Order No.: PRD 8-2003

Filed with Sec. of State: 10-3-2003

Certified to be Effective: 10-3-03

Notice Publication Date: 5-1-03

Rules Amended: 736-040-0070, 736-040-0071

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

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

Rules Coordinator: Angie Springer—(503) 378-5516

736-040-0070

Deschutes River Scenic Waterway

(1) Deschutes River Scenic Waterway Recreation Area:

(a) ORS 390.932 creates the Deschutes River Scenic Waterway Recreation Area. ORS 390.934 directs the State Parks and Recreation Department to adopt a management plan by rule to administer the Deschutes River Scenic Waterway Recreation Area. ORS 390.124 authorizes the Oregon Parks and Recreation Commission to adopt rules to carry

out the duties, functions and powers imposed by law upon the Commission and the Department.

(b) Pursuant to ORS 390.934, the Oregon Parks and Recreation Commission adopts by reference the Lower Deschutes River Management Plan and Environmental Impact Statement, Volume 1 (January 1993), and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System, (June 1997) as the management plan for the Deschutes River Scenic Waterway Recreation Area. Copies of the Lower Deschutes River Management Plan and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System are available from the Parks and Recreation Department, 1115 Commercial, N.E., Suite 1, Salem, OR 97301-1002.

(c) The state managing agencies, including the State Parks and Recreation Department, Department of Fish and Wildlife, State Marine Board, and Oregon State Police and the local managing agencies, including Sherman, Wasco and Jefferson Counties and the City of Maupin shall perform their management responsibilities relating to the Deschutes River Scenic Waterway Recreation area according to the management plan adopted by this rule and ORS 390.805 to 390.925 and 390.930 to 390.940.

(d) The Confederated Tribes of Warm Springs and the Bureau of Land Management are encouraged to exercise their jurisdiction and to manage their lands in a manner consistent with the management plan adopted by section (3) of this rule and with ORS 390.805 to 390.925 and 390.930 to 390.940.

(2) Recreational River Area:

(a) The segment of the scenic waterway extending from the Deschutes River intersection with the northerly extension of the common section line of Section 29 and Section 30, Township 9 South, Range 13 East, of the Willamette Meridian, (T 9S, R 13E, W.M.), Jefferson County, downstream approximately 96 miles to the Columbia River, but excluding the right bank shoreline (as seen when facing downstream) and adjacent lands opposite the City of Maupin, as its boundaries were established on December 3, 1970, is classified as a Recreational River Area.

(b) Within this area, no new structures or improvements which are visible from the river, other than those erected or made in connection with compatible existing uses, or those needed for public outdoor recreation or resource protection will be permitted.

(c) Additional dwellings, other than those necessary to existing agricultural uses, and commercial public service facilities, including resorts and motels and lodges which are visible from the river, will not be permitted.

(3) River Community Areas:

(a) The segment of the scenic waterway extending from Pelton Regulating Dam downstream approximately four miles to the Deschutes River intersection with the northerly extension of the common section line of Section 29 and Section 30, Township 9 South, Range 13 East, of the Willamette Meridian (T 9S, R 13E, W.M.), Jefferson County, is classified as a River Community Area. The shoreline and related adjacent lands opposite the City of Maupin, as its boundaries were established on December 3, 1970, is likewise classified as a River Community Area.

(b) Within these areas, when consistent with Jefferson County and Wasco County zoning ordinances, permitted uses and structures may include agriculture, single-family and multiple-family dwellings, churches, lodges, resorts, motels, transient public trailer parks, and necessary public service facilities. Permitted densities of improvements and structures which are visible from the river may be established by the Commission after consultation with the appropriate county planning commission, the State Fish and Wildlife Commission, the U.S. Bureau of Land Management, the City of Maupin or the Warm Springs Confederated Tribes and such other persons and agencies as the Commission may select.

(4) Public use of the Deschutes River Scenic Waterway:

(a) Policy: The Oregon Parks and Recreation Commission finds that in order to protect and enhance the Deschutes River Scenic Waterway's unique aesthetic, scenic, fish and wildlife, scientific and recreational features, and because these outstanding and unique features caused this river segment to be designated by the people of Oregon as a scenic waterway, it is necessary to adopt rules for public recreation use of the lands and waters within this scenic waterway area. These rules have as their basis the need to protect and preserve the waterway's outstanding scenic beauty and natural features while maintaining the river's wide range of recreational opportunities. Therefore, in accordance with the management requirements of ORS 390.845, the following rules shall be adhered to by persons using the Deschutes River Scenic Waterway for recreation purposes. These rules are in addition to other rules of the Commission promulgated for the management of all scenic waterways. Where more restrictive or specific than the

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general rules, these rules will prevail over the general rules except in the instance of private property owners where only OAR 736-040-0035 (Rules for Land Management) or this rule shall apply.

(b) Restricted Areas:

(A) All persons using the Deschutes River Scenic Waterway shall be advised that the Confederated Tribes of the Warm Springs Reservation of Oregon have closed all Reservation lands to public use except by permit. This closure, enacted by the Confederated Tribes, also affects all islands west of the middle of the river between the Pelton re-regulating dam and the north boundary of the Reservation near Two Springs Ranch at the power boat deadline.

(B) All persons using the Deschutes River Scenic Waterway shall be advised that the Confederated Tribes of the Warm Springs Reservation of Oregon own the east and west banks of the Deschutes River between Sandy Beach and the State Route 16 bridge crossing downstream from Sherars Falls. Sandy Beach shall be the last designated boat take out upstream from Sherars Falls. The banks of the Deschutes River from Sandy Beach downstream to the State Route 16 bridge crossing, including the former take out on the west bank of the Deschutes River immediately upstream from Sherars Falls, shall be closed to boat put in or take out. Plan at page 74.

(C) All persons using the Deschutes River Scenic Waterway shall be advised that the Deschutes River from the upstream end of Rattlesnake Rapids at about river mile 2.5 and extending downstream to the no wake zone at the downstream end of Moody Rapids at about river mile .5 is a pass through zone. All floating craft, except float tubes, shall pass through this segment of river and shall not stop along or tie up to the riverbank except in the event of an emergency. Plan at pages 58-60.

(D) Nothing in these rules gives to any person any right to trespass on the private property of others or in any way alters the rights of private property owners in regards to trespass.

(c) Definitions: For purposes of this rule, the following definitions shall apply:

(A) "Camping" means overnight occupation within the Deschutes River Scenic Waterway.

(B) "Day Use" means human presence within the Deschutes River Scenic Waterway between the hours of one hour before sunrise to 10:00 PM.

(C) "Designated Non-Fee Site" means a marked and designated campsite for which no fee is charged. The Deschutes River Managers shall designate river segments or zones where non-fee camping is allowed only in designated sites.

(D) "Fee Sites" means a marked and designated drive-in or developed camp site for which a fee is charged. Any reference in this rule, or OAR 736-040-0071, to drive-in or developed sites shall have the same meaning as Fee Site.

(E) "Group" as used in this rule means a party of two or more persons while present within the Deschutes River Scenic Waterway.

(F) "Group Site" as used in this rule means a fee site, designated non-fee site, or any other site designated by the Managing Agencies as a group site. Group sites shall be designated for use by nine persons or more, up to the maximum site capacity as designated by the Managing Agencies. Where no maximum capacity is designated, the maximum capacity shall be the maximum group size for the river segment.

(G) "Non-Fee Site" means a campsite for which a fee is not charged. As used in this rule, all references to undeveloped campsites or undeveloped sites have the same meaning as non-fee sites.

(H) "Occupied Non-Designated and/or Designated Non-Fee Boat-In Campsite" as used in this rule means the presence of at least one person for each campsite, who, if not physically present within the campsite, prominently displays in a readily legible manner, within the campsite, the person's name and boater pass number, or if the person is covered under a group pass, the person's name and the name and boater pass number of the group leader.

(I) "Overnight Occupation" means human presence between the hours of 10:00 PM and one hour before sunrise.

(J) "Recreation Site" means a marked and designated, general camping or activity area as designated by the Deschutes River Scenic Waterway Managers, or a public agency or political subdivision of the state. A recreation site shall generally contain individual campsites or a day use area.

(K) "Unoccupied" as used in this rule means the absence of human presence during the period one hour after legal sunset to one hour before legal sunrise.

(L) "Walk-In Fee Site" means a marked and designated fee site in which the main recreation site is designated to be accessed by vehicle or

boat. The individual campsite is generally a satellite campsite accessed on a walk-in basis from the main recreation site. Vehicle access is prohibited.

(d) Camping:

(A) Overnight camping is prohibited on all islands. Plan at page 63.

(B) Overnight camping length of stay shall be limited to:

(i) Four nights in undeveloped sites. Plan at page 63;

(ii) Fourteen nights in developed sites except at Deschutes State Park where the camping limit shall be ten days out of 14. Plan at page 63;

(iii) Seven nights for motorized boats between May 15 and October 15 in those areas where they are allowed. Plan at page 63.

(C) No person shall leave camping equipment or personal property overnight at or in an unoccupied, public, non-fee, campsite as a means to claim, hold, reserve or secure the site for subsequent occupancy by the same person, or their friends, clients, business associates, or clients of business associates. For the purposes of this paragraph, unoccupied means the absence of human presence during the period one hour after legal sunset to one hour before legal sunrise.

(D) At the end of a consecutive four night, overnight camping length of stay specified in subparagraph (4)(c)(B)(i) of this rule, all camping equipment and personal property shall be removed from the area and cannot be relocated within 1/4-mile of the same site for a period of at least 14 nights. Plan at page 63.

(E) Between May 15 and October 15, whenever motorized boaters vacate a campsite and it will be unoccupied as that term is defined in paragraph (4)(c)(C) of this rule, all camping and personal property shall be removed from the area and cannot be relocated within 1/4 mile of the same site for a period of at least 14 nights.

(F) Group size within the Deschutes River Scenic Waterway will be limited to 16 persons in segments 1, 3 and 4, and 24 persons in segment 2.

(G) Overnight camping group size shall be determined by the size and capability of the site. In no case shall group size exceed 16 people per site in Segments 1, 3 or 4 and 24 in Segment 2. Plan at page 63.

(H) Overnight occupancy in vehicle accessible public areas of the Deschutes Scenic Waterway will be allowed within designated fee sites only.

(I) Overnight occupancy within river areas that are managed as designated non-fee camping zones will be permitted only within designated and marked non-fee sites. Non-fee areas of river segment 1 are designated non-fee zones.

(J) Any group occupying fee or designated non-fee sites is required to abide by the designated capacity of the site. No group leader shall allow violation of this rule by any member of his/her group.

(K) Any group occupying fee or designated non-fee sites shall be required to contain all group and personal equipment within the site. Where a site boundary is marked, all group and personal equipment shall be contained within those boundaries. Where no site boundary is provided, all group and personal equipment shall be contained within a line 1/2 the distance between site designation markers. As far as is practical, all camping equipment such as tents and/or tables shall be erected or used within the most impacted core area of the site.

(L) Groups shall, as far as practical, occupy fee and designated non-fee sites that display a capacity that generally corresponds with the size of the group. As far as practical, small groups shall not occupy large capacity sites.

(M) Groups of eight persons or less, except in an emergency, are prohibited from occupying designated group sites.

(N) All non-designated and/or designated non-fee boat-in campsites within the Deschutes River Scenic Waterway shall be occupied on a first come first serve basis. Campsites may not be reserved or held for later occupation. One person may occupy and thereby hold only one campsite. Placing group or personal property in a campsite not occupied by at least one person, for the purpose of holding or reserving the site for later occupation is prohibited

(e) Campfires, Fuel, Firepans, Smoking:

(A) Open fires and charcoal shall be prohibited from June 1 to October 15. Periods of fire closure may be extended if conditions warrant. Plan at page 77. When not prohibited, fire shall be contained in a firepan or similar device of metal. A firepan is a metal container with sides at least two inches high to prevent ashes or burning material from spilling onto the ground.

(B) Commercially manufactured metal camp stoves and lanterns are permissible for outdoor use only when fueled with bottled liquified petroleum gas (e.g., propane) or liquid gas. Such stoves or lanterns shall be operated in a responsible manner at all times.

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(C) Burning of any living, dead or down vegetation within the Lower Deschutes River Management Plan area shall be prohibited. Plan at page 77.

(D) Every overnight camp, overnight hiking party or person using fire or operating a motor driven vehicle or boat within the Deschutes River Scenic Waterway designated by ORS 390.825, shall carry and keep reasonably accessible one bucket of at least one gallon capacity and one spade or shovel.

(E) No person shall leave a fire unattended.

(F) All fires shall be completely extinguished after use. The extinguished remains shall be taken out of the scenic waterway for disposal or deposited in a proper garbage receptacle provided at recreation sites or litter collection stations.

(G) Smoking shall be limited to buildings, closed vehicles, boats on the water or while standing in the water. Plan at page 77.

(f) Firearms: The discharge of firearms is prohibited within the Lower Deschutes River planning area boundaries from the third Saturday in May through August 31 of each year. Plan at page 77.

(g) Water cannons: The use of motorized/mechanized water cannons is prohibited. No person shall use manual water cannons, hydro sticks, water balloons/water balloon launchers, or other water projectile device in any way that creates a hazardous or physically offensive condition or that causes personal or public alarm, nuisance, jeopardy, or violence. Plan at page 59.

(h) Litter and Personal Sanitation:

(A) Persons using the Deschutes River Scenic Waterway for recreational purposes shall place refuse, scrap, trash and garbage in proper receptacles provided for that purpose at maintained recreation sites or litter collection stations. No such refuse, litter, garbage or similar materials shall be buried, abandoned or burned and buried or abandoned. When no approved receptacle or container is available, the material shall be taken out of the scenic waterway area for disposal. Plan at page 62.

(B) All persons using the Deschutes River Scenic Waterway for recreational purposes shall use the developed toilet facilities provided at public recreation sites. An approved portable toilet shall be carried and used by overnight boating groups (1 to 16 persons in segments 1, 3 and 4; 1 to 24 persons in segment 2) that remain, intend to remain, or display intent to remain overnight within the Deschutes River Scenic Waterway, except that this requirement shall not apply to overnight kayak trips that are entirely self-contained and not supported by other craft carrying gear. While present within the Deschutes River Scenic Waterway on an overnight boating basis, all persons shall, whenever practical, use either an approved portable toilet or an agency provided toilet facility for all solid human waste. All persons who remain, intend to remain, or display intent to remain overnight in an undeveloped camp site shall set up an approved portable toilet, ready for use, as soon as practical upon landing at the camping site to be occupied. No person shall leave, deposit, or scatter human waste, toilet paper, or items used as toilet paper, on the ground within the Deschutes River Scenic Waterway. While within the Deschutes River Scenic Waterway, portable toilets shall only be dumped at facilities developed and identified especially for that purpose. Plan at page 62. Where toilets are not provided, and the situation makes it impractical to use a portable toilet, persons shall bury all human waste and toilet paper, or material used as toilet paper, at least six inches below the surface of the ground in natural soil and at least 50 feet from the edge of the river or any other water source. For purposes of this paragraph, the following definitions shall apply:

(i) "Approved portable toilet" is any non- biodegradable, rigid, durable, container designed to receive and hold human waste, in any container position, without leaking, and equipped with a dumping system that allows the container to be emptied and rinsed into a standard receiving or dump system designed for that purpose, such as a SCAT machine or recreational vehicle dump station, in a sanitary manner, without spills, seepage or human exposure to human waste.

(ii) "Remain overnight" means human presence in the Deschutes River Scenic Waterway on a boat-in basis for any period of time from one hour after legal sunset to one hour before legal sunrise.

(iii) "Display intent to remain overnight" while within the Deschutes River Scenic Waterway on a boat-in basis includes, but is not limited to, any off-loading onto the river bank, or preparing for use, common overnight camping equipment such as tents, sleeping bags or bedding, food, cooking or dining equipment, or lighting equipment, or to prepare common camping equipment for use in or on any boat.

(iv) "Developed camp site" means a motor vehicle accessible, fee site.

(i) No person shall use fireworks within the Deschutes River Scenic Waterway: Defined as any combustible or explosive composition or substance or any combination of any such compositions or substances or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, or any other article of like construction or any article containing any explosive or inflammable compound or any tablets or other device containing any explosive substance or inflammable compound.

(j) Vehicle restrictions: The limitations set forth in paragraphs (A) through (B) of this subsection shall apply to all vehicles, operators and passengers on the following roads within the Deschutes River Scenic Waterway: Mecca Flat Road; Trout Creek Road; BLM Upper River Access Road-Maupin to Locked Gate; BLM Middle River Access Road-Bakeoven Road to Highway 216; and BLM Lower River Access Road-Highway 216 to Macks Canyon.

(A) No person shall operate a vehicle with a seating capacity greater than 24 passengers (each seat to hold no more than two persons) plus one driver and/or a total vehicle length greater than 28 feet. Plan at page 71.

(B) No person shall ride or allow another person to ride in or on top of a boat or boats within or on the back of any open bed motor vehicle, or on a boat or boats loaded on the top of any other motor vehicle. A person or persons may ride within a single boat that is properly secured by ropes or straps within the bed rails of a pickup truck, or properly secured as above on the bed of a flat bed motor vehicle. No person will be allowed to ride on the exterior portion of any motor vehicle within the Deschutes River Scenic Waterway.

(k) Inner tubes, float tubes, boogie boards:

(A) Swimming or floating with or without a flotation device and/or the use of inner tubes, float tubes, boogie boards, surf boards and other similar water toys used for transport of persons or property is prohibited in the Deschutes River channel in Moody Rapids on those days when power boats are allowed, except as provided below. This prohibition is in effect from the upstream end of Moody Rapids down river to the downstream side of the Moody Rapids channel marker from legal sunrise to legal sunset when power boats are allowed under the regulations of the Oregon State Marine Board. Anglers using float tubes may cross the Moody Rapids channel during these times provided they do so in the most direct route possible. Float tube anglers crossing the Moody Rapids channel shall look out for and give right-of-way to any motorized boat, which is in Moody Rapids channel or about to enter the rapids from downstream or upstream, or in any event when motorboats are approaching close enough to create a hazard.

(B) It is unlawful to secure any person(s), inner tube, float tube, boogie board, surf board or other similar water toys used for transport of persons or property, in or on the waters of the Deschutes River, to the river bank or to any tree, fixed object or anchoring device on lands adjacent to the river bank or to any such object or device within the boundaries of the river and river banks of the Deschutes River by any cable, rope, line, bungee cord, or other means except to secure boats to the river bank as a normal and recognized necessity. No person shall hold on to any such line or to any device secured to such line in order to ride or be transported into any channel of the Deschutes River.

(C) It is unlawful to secure any cable, rope, line or bungee cord or any device across the river except as necessary for rescue and/or salvage operations and other necessary uses upon consent of the managing agencies of the Confederated Tribes of Warm Springs, Oregon Parks and Recreation Department, Bureau of Land Management and Oregon State Police.

(D) The cables presently in place across the Deschutes River at Dant and the upstream area (approximately river mile 52) of the City of Maupin are exempt from this rule. Any permanent device, as described in this paragraph, will require approval from the Scenic Waterways Program of the Oregon Parks and Recreation Department in accordance with ORS 390.845 and OAR 736-040-0030 and 0035.

(E) The rules set forth in this rule shall not be applicable to the Deschutes River State Recreation Area Campground, the use of which shall instead be governed by general park area rules and the authority and discretion of the park manager.

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

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.934(2) & ORS 390.938(3)

Hist.: HC 1285, f. 6-27-72; PR 3-1982, f. & ef. 3-26-82; PR 4-1983, f. & ef. 3-30-83; PR 3-1985, f. & ef. 6-4-85; PR 5-1985(Temp), f. 7-15-85, ef. 11-1-85; Suspend by PR 6-1985(Temp), f. & ef. 10-1-85; PR 9-1986, f. & ef. 6-12-86; PR 5-1990, f. & cert. ef. 12-18-90; PR 4-1994, f. & cert. ef. 4-22-94; PRD 2-1998, f. & cert. ef. 1-28-98; PRD 5-1999, f. 5-

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14-99, cert. ef. 6-1-99; PRD 6-2002, f. 5-15-02, cert. ef. 6-1-02; PRD 8-2003f. 7 cert. ef. 10-3-03

736-040-0071

Deschutes River Scenic Waterway Boater Pass System Rules

(1) Policy:

(a) The Oregon Parks and Recreation Commission finds that in order to carry out the intent of Chapter 798, Oregon Laws 1981, monies collected from the sale of the Deschutes River Scenic Waterway Boater Pass shall be used for the following purposes:

- (A) For operation of the pass system;
- (B) For providing river-user oriented law enforcement services;
- (C) For providing river recreation information and education;
- (D) For developing and maintaining river oriented recreation facilities; and

(E) For any other purposes the Department considers appropriate for the maintenance, enhancement or protection of the natural and scenic beauty of the Deschutes River Scenic Waterway consistent with ORS 390.805 to 390.925.

(b) As provided by the statute, monies collected from this program shall be used exclusively within the Deschutes River Scenic Waterway;

(c) It shall further be the policy of the Commission that these monies shall be used first, to operate the pass system; and secondly, to provide as directly as possible, education, information and rule enforcement services to those river users who contribute directly to this fund. When in the judgment of the State Parks and Recreation Department Director, these priority needs can be continually met, additional uses of these funds shall be allowed consistent with paragraphs (1)(a)(D) and (E) of this rule;

(d) In determining the future use of these funds for purposes other than those listed in paragraphs (1)(a)(A), (B), and (C) of this rule, the State Parks and Recreation Department Director may consider input from the various local, state, and federal agencies involved with managing resources within the Deschutes River Scenic Waterway, the Confederated Tribes of Warm Springs Reservation of Oregon, and the general public;

(e) The Oregon Parks and Recreation Commission, by adoption of this rule, delegates the administration of this Deschutes River Scenic Waterway Boater Pass program and the funds derived from it as authorized by Chapter 798, Oregon Laws 1981, to the State Parks and Recreation Department Director or the Director's designed;

(f) The Commission encourages all local, state and federal agencies involved in resource management of the Deschutes River Scenic Waterway and the river users themselves, to give their full cooperation to this program;

(g) The Commission recognizes that the Deschutes River Scenic Waterway Boater Pass program is experimental in nature. It will endeavor to annually adjust the program as new information about visitation, river user needs and trends become apparent.

(2) Definitions: For purposes of this rule, the following definitions shall apply:

(a) "Deschutes River Scenic Waterway" – That portion of the Deschutes River designated in ORS 390.825 as a State Scenic Waterway. The portion of the Deschutes River Scenic Waterway that is affected by this rule (736-040-0071) covers approximately 100 miles from Pelton Re-regulating Dam to the Columbia River, excluding the city limits of Maupin as established on October 4, 1977. The Scenic Waterway area includes all water and lands within 1/4 mile of the bank on either side of the river;

(b) "Boat" – Every watercraft or device used as a means of transport on the water of the Deschutes River Scenic Waterway;

(c) "Deschutes River Scenic Waterway Boater Pass" – A receipt for a fee paid pursuant to Section 2, Chapter 798, Oregon Laws 1981;

(d) "In Possession" – Possessed in such a manner as to be readily available, nearby, or in close proximity to the passholder and able to be easily and quickly produced on the site in the event the passholder is requested to do so by an authorized agent or law enforcement officer, or State Park and Recreation Department employee authorized to issue citations pursuant to Section 2, Chapter 692, Oregon Laws 1981;

(e) "Day" – Any part of a 24-hour period running from 12:01 a.m. to the following midnight;

(f) "Group" – A boating party not to exceed 16 persons in segments 1, 3 and 4 and not to exceed 24 persons in segment 2; the group leader(s) of which possess a properly signed and valid boater pass(es) for not fewer than the total number of persons in the group;

(g) "Group Leader" – A person who obtains and signs a Deschutes boater pass via the Internet application process or an authorized boater pass vendor on behalf of a boating group. By signing the boater pass, the group leader accepts legal responsibility for the leader's and group members'

compliance with all applicable Oregon Parks and Recreation Department, Oregon Marine Board, State of Oregon Liquor, Controlled Substance, Juvenile and Criminal laws and Deschutes River Scenic Waterway rules;

(h) "Passholder" – Any individual person or person within a group for which the appropriate fee has been paid and that individual or a member of the group is in possession of a Deschutes River Scenic Waterway Boaters Pass;

(i) "Immediate Family" – The spouse and any natural or adopted children of a property owner or the property owner's spouse who reside with the owner of property which immediately abuts the Deschutes River Scenic Waterway.

(j) "Boat Accessed Presence" – A person's or group's physical presence in the Deschutes River Scenic Waterway in conjunction with being transported in or on a boat; which presence shall be covered by a valid Deschutes boater pass from the time of initial transport by boat until the person or group leaves the Deschutes River Scenic Waterway by boat regardless of whether or not the person or group uses a boat during each day of their presence in the Deschutes River Scenic Waterway.

(3) When Pass is Required:

(a) No person shall launch, operate or ride in any boat or engage in any camping, fishing or other activity in connection with being transported by a boat on those portions of the Deschutes River designated as scenic waterways under ORS 390.825, during the time period established in section (4) of this rule, without having first obtained a valid Deschutes River Scenic Waterway Boater Pass (hereinafter referred to as "pass") for the days during which these activities are conducted. A person will be issued, upon payment of the appropriate fee and completion of the pass form, either an individual pass, annual pass, a group pass, or a special pass as specified in section (10) of this rule;

(b) Every person landing, operating or riding in a boat or engaging in any camping, fishing or other activity in connection with being transported by a boat on that portion of the Deschutes River Scenic Waterway specifically described in subsection (2)(a) of this rule, shall display his/her individual, annual, group or special pass upon the demand of any law enforcement officer or employee of the State Parks and Recreation Department who is authorized to enforce these rules.

(4) Time Period of Pass: The time period for which a valid pass is required is year round.

(5) Requirements for Valid Pass:

(a) The pass will consist of the following information to be placed on a form provided by the State Parks and Recreation Department and completed at the time of purchase:

- (A) Calendar date(s) pass will be used;
- (B) Number of days pass will be valid;
- (C) Total fee paid for issuance of the pass;
- (D) Number of persons authorized by pass;
- (E) Signature of passholder or group leader;
- (F) A summary of appropriate river use rules;
- (G) Driver's license number;
- (H) Date of birth.

(b) In order for a pass to be valid in subsection (a) of this section, the recipient must:

- (A) Provide all of the above information as requested;
- (B) Have the completed pass in possession while boating within the Deschutes River Scenic Waterway;
- (C) Be boating within the Deschutes River Scenic Waterway only on the calendar days authorized for on the recipient's completed pass; and
- (D) Have paid the appropriate fee.

(c) A passholder may also be issued with the pass, informational and educational material designed to encourage an appreciation of the scenic waterway and promote minimum impact recreation use.

(6) Cost of Pass:

(a) The fee for issuance of a pass, either individual or group, shall be \$2 per person per day, except that the fee for individuals or groups using only that portion of the Deschutes River Scenic Waterway from the Heritage Landing launch ramp, or the bank moorage adjacent to Deschutes River State Recreation Area, downstream to the Columbia River solely for boat access to the Columbia River, shall be \$1 per person per day. Use of the \$1 pass, also known as the Heritage to Columbia pass, for boating recreation on or access to the Deschutes River, or access to islands in the Deschutes River is prohibited.

(b) The fee for issuance of an individual annual pass shall be \$15 per person per year. Except as provided in subsection (c) of this section, each annual pass will be valid only for a single calendar year beginning on

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January 1 and ending on December 31 of each year a pass is required under section (4) of this rule.

(c) Effective January 1, 2004, an annual pass shall not be valid on Saturdays and/or Sundays from May 15 through September 15 in segments 1, 2 and 3, and from May 15 through October 15 in segment 4. Annual pass holders who engage in boating, or activities involving boating, within the Deschutes Scenic Waterway during these periods, shall be required to obtain a daily boater pass for those days the annual pass is not valid.

(7) Group Pass:

(a) No group shall exceed the number of persons shown on the pass. In the event the number of persons in the group exceeds the number shown on the pass, the group leader shall be in violation of this rule;

(b) Group passes will be issued only for 16 persons or less for segments 1, 3 and 4, and 24 persons or less for segment 2;

(c) The daily pass shall be in the possession of the group leader at all times while within the Deschutes River Scenic Waterway.

(8) Sale of Pass:

(a) The pass will be available for purchase on the Internet, at selected state park offices, certain cooperating businesses and selected public agency locations throughout the state. Selection of vendors will be based on location, days and hours of operation, past performance in similar governmental sales and the ability to provide service to a large number of potential Deschutes River Scenic Waterway boaters;

(b) Private vendors and cooperating agencies must comply fully with the terms of the Department/Vendor agreement and the Department's policies for vending the Deschutes River Scenic Waterway Boater Pass. Private vendors and cooperating agencies may charge a \$.50 handling fee for dispensing each pass or duplicate pass. Such fee will be in addition to any fee charged under section (6) of this rule;

(c) Passes will be available for purchase year-round. The State Parks and Recreation Department will publish and make available to the public, at no cost, a listing of all vendors of the Deschutes River Scenic Waterway Boater Pass. The list will include location of vendors and days and hours the pass will be available for purchase.

(d) The annual pass shall be available for purchase in person or by mail only from the Parks and Recreation Department office in Salem and such other outlets as the Department may determine necessary. The Department may require that annual pass holders submit periodic reports detailing the use of their annual pass during any calendar year. The frequency and format of such reports shall be as prescribed by the Department. The Department may require that the issuance of an annual pass to any person be contingent on that person having submitted annual pass use reports for the previous season, if applicable.

(9) Refunds, Replacements:

(a) No cash refunds will be permitted in the event a pass is not used;

(b) The passholder may get a duplicate pass to replace one that is lost or destroyed by applying for a duplicate from the same vendor from which he purchased the original pass. A duplicate pass may only be issued prior to the effective date of the original pass. The passholder must provide to the vendor all information necessary to permit the vendor to confirm the original pass sale.

(10) Special Exceptions:

(a)(A) Pursuant to Section 2(3), Chapter 798, Oregon Laws 1981, the State Parks and Recreation Director shall issue without charge annual passes to comply with the requirements of this rule to persons who own ranch, farm, or residential property immediately abutting those portions of the Deschutes River designated as a Scenic Waterway under ORS 390.825 and more particularly described in subsection (2)(a) of this rule and to members of the immediate family of such persons. This rule does not authorize the issuance, without charge, of passes to persons holding less than a majority interest in a firm, corporation or cooperative organization which owns land immediately abutting the Deschutes River designated as a scenic waterway under ORS 390.825;

(B) Free annual passes shall be issued by the State Parks and Recreation Department to persons who qualify under this section and have contacted the State Parks and Recreation Department or the Department's designated contractor. All passes issued under this section are nontransferable. They are for the sole use of the person(s) to whom they are issued;

(C) Persons who believe they qualify for a free annual pass must contact in person or by mail: River Programs, State Parks and Recreation Department, 1115 Commercial St. N.E., Suite 1, Salem, OR 97301-1002 (Attn: Free Annual Pass), or the Department's designated contractor, and present for the Department's review evidence that substantiates the applicant's claim to a free annual pass. Evidence may consist of property tax information, deeds, birth certificates or similar legal or real estate devices.

(b)(A) The State Parks and Recreation Director may issue a \$5 annual access pass to persons who own, either wholly or in partnership, farm, ranch or residential land within the specific reach of the Deschutes River Scenic Waterway described in subsection (2)(a) of this rule, and whose sole or customary means of access to their farm, ranch or residential facilities is by boat. The purpose of this pass is to permit unrestricted access to private property not reasonably or traditionally accessible by any means other than by boat. Each annual access pass will be valid for up to four persons;

(B) Prior to the issuance of this pass, an individual must submit a written request to the Director or the Department's designated contractor, clearly stating the reasons, factors or circumstances requiring the issuance of the annual access pass.

(c) The Director, or the Department's designated contractor, may issue a \$5 annual occupational pass to persons or employees of farm, ranch or residential property owners and lessees of farm, ranch or residential property. The farm, ranch or residential property must be immediately abutting that portion of the Deschutes River Scenic Waterway more particularly described in subsection (2)(a) of this rule. The annual occupational pass shall be for those persons engaged in boating in order to access, supervise, or maintain property immediately abutting the Deschutes River Scenic Waterway. This pass will not be valid for boating in connection with any recreational activity. The pass is transferable among employees and caretakers of a single property-owner or organization; the pass is also transferable among leaseholders of a particular parcel of property. Proof of employment or lease agreement will be required prior to the issuance of this pass;

(d) Pursuant to Section 3(2), Chapter 798, Oregon Laws 1981, no Deschutes River Scenic Waterway boater pass will be required of:

(A) Peace officers, members or employees of a governmental body, or their agents, while engaged in the discharge of official duties; or

(B) Any member of the Confederated Tribes of the Warm Springs Indian Reservation.

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

Stat. Auth.: ORS 390.124 & ORS 390.848

Stats. Implemented: ORS 390.124, ORS 390.848 & ORS 390.851

Hist.: PR 2-1982, f. 2-3-82, ef. 5-15-82; PR 2-1983, f. & ef. 3-11-83; PR 15-1992, f. & cert. ef. 11-12-92; PR 5-1994, f. 4-22-94, cert. ef. 6-1-94; PRD 2-1999, f. & cert. ef. 4-15-99; PRD 5-1999, f. 5-14-99, cert. ef. 6-1-99; Administrative correction 12-27-99; PRD 6-2002, f. 5-15-02, cert. ef. 6-1-02; PRD 8-2003, f. & cert. ef. 10-3-03

Adm. Order No.: PRD 9-2003

Filed with Sec. of State: 10-13-2003

Certified to be Effective: 10-13-03

Notice Publication Date: 7-1-02

Rules Amended: 736-018-0045

Subject: ORS 390.180(1)(c) requires the Director of the Oregon Parks and Recreation Department (ORPD) to adopt administrative rules that establish a master plan for each state park. Accordingly, ORPD is adopting a new master plan for the state parks in Curry County. The Curry County State Parks Master Plan responds to the most current information on the resource conditions and public recreation needs as they pertain to the parks. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt as state rule, the new master plan for the parks in Curry County.

Rules Coordinator: Angie Springer—(503) 378-5516

736-018-0045

Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

(a) Fort Stevens State Park Master Plan, as amended in 2001;

(b) Cape Lookout State Park;

(c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;

(d) Nestucca Spit State Park, renamed as Robert Straub State Park;

(e) Jessie M. Honeyman State Park;

(f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor,

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Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wygant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;

- (g) Molalla River State Park;
- (h) Champoeg State Park;
- (i) Willamette Mission State Park;
- (j) Cascadia State Park;
- (k) Elijah Bristow State Park;
- (l) Cove Palisades State Park Master Plan, as amended in 2002;
- (m) Silver Falls State Park Master Plan, as amended in 1999;
- (n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park; William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area; and

(y) Illinois River Forks State Park.

(z) Wallowa County State Parks Master Plan, 2000.

(aa) Master Plan for a Proposed New State Park in Washington County, currently unnamed, 2001.

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003.

(cc) South Beach State Park Master Plan, 2003.

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 725 Summer Street NE, Suite C, Salem OR 97301.

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

Stat. Auth.: ORS 390.180(1)(c) & ORS 390.124

Stats. Implemented: ORS 390.180(1)(c)

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03; PRD 5-2003, f. & cert. ef. 7-8-03; PRD 9-2003, f. & cert. ef. 10-13-03

Public Utility Commission Chapter 860

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Subject: These rules amend and/or reorganize the requirements for establishing credit for residential utility service, interruption of utility service, meter testing, payment arrangements for deposits, and make other housekeeping changes.

Rules Coordinator: Lauri Salsbury—(503) 378-4372

860-021-0009

Applications for Utility Service from an Energy or Large Telecommunications Utility

(1) An application for energy or telecommunications utility service must be made when:

(a) Service is requested by a person who has not previously been served by the energy or large telecommunications utility;

(b) Service has been involuntarily discontinued in accordance with these rules, and the person later seeks to have service restored; or

(c) Service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

(2) An application is a request for energy or telecommunications utility service. The energy or large telecommunications utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-021-0200 and 860-021-0205. However, the energy or large telecommunications utility may refuse a service application under OAR 860-021-0335.

(3) An energy or large telecommunications utility may require an applicant to provide the following information when applying for service:

(a) The name of person(s) responsible for payment on the account;

(b) The name to be used to identify the account, if different than the actual name;

(c) The birth date of person(s) responsible for payment on the account;

(d) The social security number of person(s) responsible for payment on the account;

(e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;

(f) The service address;

(g) The billing address, if different than service address; and

(h) Any available telephone numbers where the applicant can be reached night and day.

(4) In lieu of providing a valid social security number or current valid Oregon driver license number under section (3) of this rule, an applicant may provide:

(a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;

(b) A combination of:

(A) An original or certified true copy of his or her birth certificate;

(B) A current identification from school or employer containing a photograph; and

(C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or,

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(c) Other information deemed sufficient by the utility to establish an applicant's identification.

(5) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue conflict resolution under the Commission's rules.

(6) Upon request, the energy or large telecommunications utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the energy or large telecommunications utility and the customer.

(7) A large telecommunications utility shall protect the identity of a customer at risk of domestic violence or other abuse. The large telecommunications utility shall provide the identity protection by allowing the customer to use a modified or alternative name for a directory listing or by providing, at no cost, a non-published listing in accordance with other applicable tariff provisions for the length of time the endangerment exists. A customer requesting a nonpublished listing under this section must provide:

(a) A copy of a court order that restrains another person from contact with the customer by reason of risk of domestic violence, as defined in ORS 135.230, or unwanted sexual contact, as defined in ORS 163.305, abuse, as defined by the Elderly and Disabled Person Abuse Prevention Act, ORS 124.005 et seq., or stalking, as defined by ORS 163.730 et seq.; and

(b) An affidavit, stating that the customer is financially unable to pay for the nonpublished listing.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 2-1993, f. & cert. ef. 1-8-93 (Order No. 92-1793 & 93-035); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0021

Interruption of Utility Service

(1) Each energy or large telecommunications utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) Each energy or large telecommunications utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the energy or large telecommunications utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each energy or large telecommunications utility shall make reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs or for repairs or maintenance work performed by a telecommunications utility that results in an interruption of less than five minutes. All scheduled interruptions shall be made at a time causing minimum inconvenience to customers. In determining reasonable notice, the energy or large telecommunications utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

(4) In addition to the requirements above, electric utilities shall comply with OAR 860-023-0080 through 860-023-0160, which set additional requirements for electric service reliability and reporting.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1979, f. & ef. 10-6-79 (Order No. 79-680); Renumbered from 860-021-0070; PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0067; PUC 16-1997, f. 12-11-97, cert. ef. 1-1-98; PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0125

Due and Payable Period

(1) Each energy or large telecommunications utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment for final bills, to the due date is not less than 15 days.

(2) If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0035; PUC 11-1998, f. & cert. ef. 5-7-

98; PUC 4-1999, f. & cert. ef. 8-12-99; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0130

Meter Test

(1) Any customer may ask the energy utility to test a meter. Such tests shall be made within 20 working days of the request at no cost to the customer. If a customer requests more than one meter test within any 12-month period, the energy utility may charge the customer to recover the reasonable cost of the test. The energy utility may not charge the customer if the meter is found to register outside the 2 percent accepted tolerance standard under normal operating conditions.

(2) A customer and/or a designated representative shall have the right to be present at any meter test. The test shall be conducted at a mutually acceptable time during regular business hours.

(3) A written report showing the customer's name, the request date, the address where the meter has been installed, the meter's number, the date tested, and the test result shall be supplied to the customer within a reasonable time after completing the test.

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

Stats. Implemented: ORS 756.040 & ORS 757.255

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-021-0025; PUC 13-1997, f. & cert. ef. 11-12-97; PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0200

Establishing Credit for Residential Utility Service

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

(a) Received 12 months of continuous utility service of the same type applied for (energy or telecommunications) during the preceding 24 months and the utility can verify, either by contacting the former utility or through an authorized letter provided by former utility on utility letterhead to include dates of service and presented by the applicant, customer or former utility, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets Commission approved minimum credit requirements based on a third party credit report score or the energy or large telecommunications utility's own credit scoring formula; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the energy or large telecommunications utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the energy or large telecommunications utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

(b) The applicant or customer received the same type of utility service from it or any Oregon energy or telecommunications utility, as defined in ORS 757.005 or 759.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon utility as defined in ORS 757.005 or 759.005, was found to have tampered with the meter or other utility facilities, or was otherwise found to have diverted utility service.

(3) In lieu of paying a deposit, an applicant or customer may:

(a) Provide the energy or large telecommunications utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit; or

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(b) For energy utilities, elect to use demand limiter or "pay as you go" metering, if equipment is available.

(4) For energy utilities, a deposit required under this rule shall not exceed one-sixth the amount of reasonable estimated billing for 12 months at rates then in effect. This estimate shall be based upon actual use at the premises during the prior 12 months, if known, or will be estimated based upon the type and size of the equipment at the premises. Each deposit shall be rounded to the nearest whole dollar.

(5) For large telecommunication utilities, a deposit required under these rules shall be based upon two months' average or estimated bills for usage of the applicable telecommunications utility's tariff and price-listed services. Each deposit shall be rounded to the nearest whole dollar. For telecommunications service, applicants eligible for Oregon Telephone Assistance Program (OTAP) funding and who voluntarily elect to receive toll-blocked service, no deposit may be charged. The large telecommunications utility shall make toll blocking available at no charge to all applicants identified in OAR 860-033-0030.

(6) A new or additional deposit, calculated as provided by sections (4) and (5) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The energy or large telecommunications utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The energy or large telecommunications utility discovers that the customer has stolen utility service, has tampered with the meter or other utility facilities, or was otherwise found to have diverted utility service;

(c) For energy utilities, a customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit; or

(d) For large telecommunications utilities, if service records for the customer indicates unbilled intraLATA toll activity under the utilities' tariff and price list is greater than the basis of the prior deposit.

(7) Paying a deposit does not excuse a customer from complying with the energy or large telecommunications utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(8) An energy or large telecommunications utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

Stat. Auth.: ORS 183, ORS 756, ORS 757, ORS 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987
Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 6-1981, f. & ef. 8-10-81 (Order No. 81-498); PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); Renumbered from 860-21-040; PUC 5-1989(Temp), f. & cert. ef. 4-19-89 (Order No. 89-493); PUC 13-1989, f. & cert. ef. 9-12-89 (Order No. 89-1173); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 13-1997, f. & cert. ef. 11-12-97; PUC 17-1997(Temp), f. 12-11-97, cert. ef. 1-1-98 thru 6-29-98; PUC 5-1998, f. & cert. ef. 3-13-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0205

Deposit Payment Arrangements for Residential Electric and Gas Utility Service

(1) When a gas or electric utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment. Except for the last payment, installments shall be the greater of \$30 or one-third of the deposit.

(2) When an installment payment or a deposit is made with a payment for gas or electric utility service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) When the gas or electric utility requires the customer or applicant to pay an additional deposit, the customer shall pay one-third of the total deposit, or at least \$30, whichever is greater, within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer or applicant enters into an installment agreement for payment of a deposit under section (1) of this rule, the gas or electric utility shall provide written notice explaining its deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer or applicant that utility service will be disconnected if the gas or electric utility does not receive the payment when due. The notice shall also set forth the name and telephone number of the appropriate unit within the Department of Human Services or other agencies which may be able to help the customer obtain financial aid.

(5) If a customer fails to abide by the terms of a deposit installment agreement, the gas or electric utility may disconnect service after a five-day notice. The notice shall contain the information set forth in OAR 860-021-0405(2)(a), (b), (c), (e), (f), and (g) and shall be served as required by OAR 860-021-0405(5).

(6) When good cause exists, the Commission or the gas or electric utility may provide more liberal arrangements for payment of deposits than those set forth in this rule. The gas or electric utility shall keep a written record of the reasons for such action.

(7) If disconnection for nonpayment of a deposit occurs, the customer disconnected shall pay the full amount of the deposit, any applicable reconnection fee, late-payment fee, and one-half the past due amount before service is restored. The customer shall pay the balance of the past-due amount within 30 days of the date service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments, the full deposit, and other applicable fees.

Stat. Auth.: ORS 183, ORS 756, ORS 757 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040 & Ch. 290, OL 1987
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284), PUC 12-1983 f. & ef. 10-7-83 (Order No. 83-623); PUC 5-1987, f. & ef. 7-2-87 (Order No. 87-723); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0206

Payment Arrangements for Deposit and Installation Charges for Residential Telecommunications Utility Service

(1) Time payments for deposits and nonrecurring charges shall be limited to charges for residential service and intraLATA toll. When the large telecommunications utility requires deposits and/or nonrecurring charges to establish or reestablish service from an applicant, the applicant shall pay one-fourth of the deposit and/or nonrecurring charges immediately. The customer or applicant shall pay the remainder in three equal installments, which shall be due 30, 60, and 90 days, respectively, after the date the payment agreement is executed. Except for the last payment, installments shall be the greater of \$20 or one-fourth of the total deposit. In communicating with an applicant to establish service or to require a deposit and/or nonrecurring charge, the large telecommunications utility shall inform the applicant of the availability of Link-Up America and Oregon Telephone Assistance Program benefits and inform the applicant that details are available from the Commission.

(2) When a customer makes an installment payment or a deposit with a payment for telecommunications utility service, the large telecommunications utility shall first apply the amount paid toward the amount due for deposit and/or nonrecurring charges.

(3) A customer who is required to pay an additional deposit shall pay one-fourth of the total deposit within five days to the large telecommunications utility. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) When a customer enters into an installment agreement for payment of a deposit and/or nonrecurring charges under section (1) of this rule, the large telecommunications utility shall provide written notice explaining its deposit and nonrecurring charges requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the customer that utility service will be disconnected if payment is not received when due.

(5) If a customer fails to abide by the terms of an installment agreement, the large telecommunications utility may disconnect local exchange service after providing a written five-day notice. The notice shall contain the information set forth in OAR 860-021-0505(3)(a) through (e) and shall be served as required by in OAR 860-021-0505(4) and (5). In lieu of permanent disconnection, the large telecommunications utility may curtail service pursuant to OAR 860-021-0505(7).

(6) When good cause exists, the large telecommunications utility may provide or the Commission may require, more liberal arrangements for payment of deposits and/or nonrecurring charges than those set forth in this rule. The large telecommunications utility shall keep a written record of the reasons for such action.

(7) If disconnection for nonpayment of a deposit and/or nonrecurring charges occurs, the customer disconnected shall pay the full amount of the deposit, and/or nonrecurring charges, any applicable reconnection fee, late-payment fee, and past due tariff and price-listed amount before service is restored. A customer may continue with an existing medical certificate time-payment agreement by paying all past-due installments.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 183, ORS 756 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040 & Ch. 290 OL 1987
Hist.: PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0210

Interest on Deposits for Residential and Nonresidential Utility Service

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all energy and large telecommunications utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the energy or large telecommunications utility shall provide the customer documentation showing the date, name of the applicant or customer, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. An energy or large telecommunications utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, ORS 756, ORS 757, ORS 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040 & Ch. 290, OR Laws 1987
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 3-1989, f. 2-6-89, cert. ef. 2-8-89 (Order No. 89-038); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 12-1997, f. & cert. ef. 10-30-97; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-021-0420

Disconnect Visit Charge

A Commission approved fee may be charged whenever a gas or electric utility visits a residential service address intending to reconnect or disconnect service, but due to customer action, the gas or electric utility is unable to complete the reconnection of disconnection at the time of the visit.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040 & ORS 757.225
Hist.: PUC 5-1983, f. 5-31-83, ef. 6-1-83 (Order No. 83-284); PUC 12-1983, f. & ef. 10-7-83 (Order No. 83-623); PUC 16-1990, f. 9-28-90, cert. ef. 10-1-90 (Order No. 90-1105); PUC 11-1998, f. & cert. ef. 5-7-98; PUC 16-2003, f. & cert. ef. 10-1-03

860-034-0030

Applications for Service from a Small Telecommunications Utility

(1) An application for telecommunications utility service must be made when:

(a) Service is requested by a person who has not previously been served by the small telecommunications utility; or

(b) Service has been involuntarily discontinued in accordance with these rules, and the person later seeks to have service restored.

(2) An application for telecommunications utility service may be requested when service has been voluntarily discontinued, and a request to restore service has not been made within 20 days.

(3) An application is a request for telecommunications utility service. The small telecommunications utility shall not accept an application for service until the applicant:

(a) Establishes credit as set forth in OAR 860-034-0140; or

(b) Pays a deposit or deposit installment to the small telecommunications utility.

(3) A small telecommunications utility may require an applicant to provide the following information when applying for service:

(a) The name of person(s) responsible for payment on the account;

(b) The name to be used to identify the account, if different than the actual name;

(c) The birth date of person(s) responsible for payment on the account;

(d) The social security number of person(s) responsible for payment on the account;

(e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;

(f) The service address;

(g) The billing address, if different than service address; and

(h) Any available telephone numbers where the applicant can be reached night and day.

(4) In lieu of providing a valid social security number or current valid Oregon driver license number under section (3) of this rule, an applicant may provide:

(a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;

(b) A combination of:

(A) An original or certified true copy of his or her birth certificate;

(B) A current identification from school or employer containing a photograph; and

(C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or

(c) Other information deemed sufficient by the utility to establish an applicant's identification.

(5) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue conflict resolution under the Commission's rules.

(6) Upon request, the small telecommunications utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the small telecommunications utility and the customer.

(7) A small telecommunications utility shall protect the identity of a customer at risk of domestic violence or other abuse. The small telecommunications utility shall provide the identity protection by allowing the customer to use a modified or alternative name for a directory listing or by providing, at no cost, a non-published listing in accordance with other applicable tariff provisions for the length of time the endangerment exists. A customer requesting a nonpublished listing under this section must provide:

(a) A copy of a court order that restrains another person from contact with the customer by reason of risk of domestic violence, as defined in ORS 135.230, or unwanted sexual contact, as defined in ORS 163.305, abuse, as defined by the Elderly and Disabled Person Abuse Prevention Act, ORS 124.005 et seq., or stalking, as defined by ORS 163.730 et seq.; and

(b) An affidavit, stating that the customer is financially unable to pay for the nonpublished listing.

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

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & cert. ef. 5-7-98; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-034-0090

Interruption of Utility Service

(1) Each small telecommunications utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) Each small telecommunications utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur, shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each small telecommunications utility shall make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes. All scheduled interruptions shall be made at a time causing minimum inconvenience to customers. In determining reasonable notice, the small telecommunications utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

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

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & cert. ef. 5-7-98; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-034-0110

Due and Payable Period

(1) Each small telecommunications utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of final bills, to the due date, is not less than 15 days.

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(2) If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

Stat. Auth.: ORS 183, ORS 756 & ORS 759
Stats. Implemented: ORS 759.045
Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & cert. ef. 5-7-98; PUC 4-1999, f. & cert. ef. 8-12-99; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-034-0140

Establishing Credit for Residential Utility Service

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

(a) Received 12 months of continuous telecommunications utility service during the preceding 24 months and the small telecommunications utility can verify, either by contacting the former utility or through an authorized letter provided by the applicant or customer, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets the small telecommunications utility's minimum credit requirements based on a third party credit report score or based on the utility's own credit scoring formula approved by the Commission; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the small telecommunications utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the small telecommunications utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

(b) The applicant or customer received the same type of utility service from it or any Oregon telecommunications utility or telecommunications cooperative, as defined in ORS 759.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon telecommunications utility or telecommunications cooperative as defined in ORS 759.005, was found to have tampered with other telecommunications utility facilities, or was otherwise found to have diverted telecommunications utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the small telecommunications utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit.

(4) Deposits for telecommunications service shall be based upon two months' average or estimated bills for usage of the applicable telecommunications utility's tariff and price-listed services. Each deposit shall be rounded to the nearest whole dollar. For telecommunications service, applicants eligible for Oregon Telephone Assistance Program (OTAP) funding and who voluntarily elect to receive toll-blocked service, no deposit may be charged. The small telecommunications utility shall make toll blocking available at no charge to all applicants identified in OAR 860-033-0030.

(5) A new or additional deposit, calculated as provided by sections (4) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The small telecommunications utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The small telecommunications utility discovers that the customer has stolen utility service, has tampered with the meter or other utility facilities, or was otherwise found to have diverted utility service; or

(c) If service records for the customer indicates unbilled intraLATA toll activity under the small telecommunications utility's tariff and price list is greater than the basis of the prior deposit.

(6) Paying a deposit does not excuse a customer from complying with the small telecommunications utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A small telecommunications utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

Stat. Auth.: ORS 183, ORS 756, ORS 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 17-1997(Temp), f. 12-11-97, cert. ef. 1-1-98 thru 6-29-98; PUC 5-1998, f. & cert. ef. 3-13-98; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-034-0160

Interest on Deposits for Residential and Nonresidential Utility Service

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all small telecommunications utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the small telecommunications utility shall provide the customer documentation showing the date, name of the applicant or customer, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. A small telecommunications utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, ORS 756, ORS 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 759.045 & Ch. 290, OL 1987

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1997, f. & cert. ef. 10-30-97; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0035

Applications for Water Utility Service

(1) An application for water utility service must be made when:

(a) Service is requested by an applicant who has not previously been served by the water utility;

(b) Service has been involuntarily discontinued in accordance with these rules and the customer or applicant later seeks to have service restored; or

(c) Service has been voluntarily discontinued and a request to restore service has not been made within 20 days.

(2) An application is a request for water utility service. The water utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-036-0040. However, the water utility may refuse a service application under OAR 860-036-0080.

(3) A water utility may require an applicant to provide the following information when applying for service:

(a) The name of person(s) responsible for payment on the account;

(b) The name to be used to identify the account, if different than the actual name;

(c) The birth date of person(s) responsible for payment on the account;

(d) The social security number of person(s) responsible for payment on the account;

(e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;

(f) The service address;

(g) The billing address, if different than service address; and

(h) Any available telephone numbers where the applicant can be reached night and day.

(4) In lieu of providing a valid social security number or current valid Oregon driver license number under section (3) of this rule, an applicant may provide:

(a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;

(b) A combination of:

(A) An original or certified true copy of his or her birth certificate;

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(B) A current identification from school or employer containing a photograph; and

(C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or

(c) Other information deemed sufficient by the utility to establish an applicant's identification.

(5) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue conflict resolution under the Commission's rules.

(6) Upon request, the water utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the water utility and the customer.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0040

Establishing Credit for Residential Service

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

(a) Received 12 months of continuous water utility service during the preceding 24 months and the water utility can verify, either by contacting the former water utility or through an authorized letter provided by the applicant or customer, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets the water utility's minimum credit requirements based on a third party credit report score or based on the water utility's own credit scoring formula approved by the Commission; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the water utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the water utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

(b) The applicant or customer received the same type of water utility service from it or any Oregon water utility, as defined in ORS 757.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon water utility as defined in ORS 757.005, was found to have tampered with the meter or other water utility facilities, or was otherwise found to have diverted water utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the water utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same water utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit.

(4) Deposits for water utility service shall not exceed one-sixth the amount of reasonable billing for one year at the rates then in effect. The estimate shall be based on the use of the service at the premises during the prior year or on the type and size of the customer's equipment that will use the service. Each deposit shall be rounded to the nearest whole dollar.

(5) A new or additional deposit, calculated as provided by sections (4) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The water utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The water utility discovers that the customer has stolen water utility service, has tampered with the meter or other water utility facilities, or was otherwise found to have diverted water utility service; or

(c) A customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

(6) Paying a deposit does not excuse a customer from complying with the water utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A water utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0050

Interest on Deposits for Residential and Nonresidential Service

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise all water utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the water utility shall provide the customer documentation showing the date, name of the customer or applicant, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. A water utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0075

Interruption of Service

(1) A water utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the time, duration, and cause of interruption.

(2) A water utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the water utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each water utility shall make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes. All scheduled interruptions shall be made at a time causing minimum inconvenience to customers. In determining reasonable notice, the water utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0115

Customer Requested Meter Test

(1) Any customer may ask the water utility to test the water meter used to measure the customer's service. The water utility shall make such test within 20 working days of the request at no cost to the customer. If a customer requests more than one meter test within any 12-month period, the water utility may charge the customer to recover the reasonable cost of the test. The water utility may not charge the customer if the meter is found to register outside the 2 percent accepted tolerance standard under normal operating conditions.

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(2) A customer or a designated representative shall have the right to be present at any meter test. The test shall be conducted at a mutually acceptable time during regular business hours.

(3) The water utility must provide a written report to the customer within 10 working days from the date the meter test showing the customer's name, the request date, the address where the meter is installed, the meter's identification number, the date tested, and the test result.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 16-2003, f. & cert. ef. 10-1-03

860-036-0125

Due and Payable Period; Time-Payment Agreements for Residential Service

(1) Each water utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of the final bill, to the due date is not less than 15 days. If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

(2) A water utility may not disconnect residential service for non-payment if a customer enters into a written time-payment plan. A water utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a leveled-payment plan and an equal-pay arrearage plan.

(3) A customer who selects a leveled-payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter:

(a) The monthly installment plan shall be reviewed by the water utility periodically. If necessary, due to changing rates or variations in the amount of service used by the customer, the installment amount may be adjusted in order to bring the account into balance within the time period specified in the original agreement.

(b) If a customer changes service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other scheduled or tariffed charges associated with the change in residence, the water utility shall recalculate the customer's deposit or monthly installment. The recalculated amount shall reflect the balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall be required to pay all past-due installments, together with any other applicable charges before service is provided at the new residence.

(4) A customer who selects an equal-pay arrearage plan will pay a down payment equal to 1/12 the amount owed for past water utility service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for water utility service. If a customer changes service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the water utility provides service at the new address.

(5) The water utility and customer may agree in writing to an alternate payment arrangement, provided the water utility first informs the customer of the availability of the payment terms set forth in sections (3) and (4) of this rule.

(6) If a customer fails to abide by the time-payment agreement, the water utility may disconnect service after serving a 15-day disconnect notice. The notice shall comply with OAR 860-036-0245, except that subsection (5)(d) shall not be applicable. Such customers shall not be eligible for a renewal or renegotiation of a time-payment plan.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 16-2003, f. & cert. ef. 10-1-03

860-037-0030

Applications for Water/Wastewater Utility Service

(1) An application for water/wastewater utility service must be made when:

(a) Service is requested by an applicant who has not previously been served by the water/wastewater utility;

(b) Service has been involuntarily discontinued in accordance with these rules and the customer or applicant later seeks to have service restored; or

(c) Service has been voluntarily discontinued and a request to restore service has not been made within 20 days.

(2) An application is a request for water/wastewater utility service. The water/wastewater utility shall not accept an application for service until the applicant establishes credit as set forth in OAR 860-037-0035. However, the water/wastewater utility may refuse a service application under OAR 860-037-0075.

(3) A water/wastewater utility may require an applicant to provide the following information when applying for service:

(a) The name of person(s) responsible for payment on the account;

(b) The name to be used to identify the account, if different than the actual name;

(c) The birth date of person(s) responsible for payment on the account;

(d) The social security number of person(s) responsible for payment on the account;

(e) A current valid Oregon driver license number of the person(s) responsible for payment on the account;

(f) The service address;

(g) The billing address, if different than service address; and

(h) Any available telephone numbers where the applicant can be reached night and day.

(4) In lieu of providing a valid social security number or current valid Oregon driver license number under section (3) of this rule, an applicant may provide:

(a) A valid state or federal identification containing name and photograph of the person(s) responsible for payment on the account;

(b) A combination of:

(A) An original or certified true copy of his or her birth certificate;

(B) A current identification from school or employer containing a photograph; and

(C) The name, address, and telephone number of a person who can verify the applicant's identity, such as a teacher, employer, or caseworker; or

(c) Other information deemed sufficient by the utility to establish an applicant's identification.

(5) If an applicant is denied service for failure to provide an acceptable form of identification, the applicant may pursue conflict resolution under the Commission's rules.

(6) Upon request, the water/wastewater utility shall protect the account from access by others through the use of a personalized password or other means acceptable to both the water/wastewater utility and the customer.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.005 & ORS 757.061
Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

860-037-0035

Establishing Credit for Residential Service

(1) An applicant or customer may demonstrate satisfactory credit for new or continuing service by showing any of the following, provided that a deposit is not required under section (2) of this rule:

(a) Received 12 months of continuous water/wastewater utility service type during the preceding 24 months and the new water/wastewater utility can verify, either by contacting the former water/wastewater utility or through an authorized letter provided by the applicant or customer, that the applicant or customer voluntarily terminated service and timely paid for all services rendered;

(b) Meets the water/wastewater utility's minimum credit requirements based on a third party credit report score or based on the water/wastewater utility's own credit scoring formula approved by the Commission; or

(c) Proof of ability to pay by providing either:

(A) Proof of employment during the entire 12 months previous to the application of service for person(s) responsible for payment on the account and a work telephone number to enable the water/wastewater utility to verify employment; or

(B) A statement or other documentation from the income provider or an authorized representative, that the water/wastewater utility can verify, indicating that the applicant or customer receives a regular source of income.

(2) An applicant or customer may be required to pay a deposit at the time of application for new or continued service when:

(a) The applicant or customer is unable to establish credit as defined in section (1) of this rule;

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(b) The applicant or customer received the same type of water/wastewater utility service from it or any Oregon water/wastewater utility, as defined in ORS 757.005, within the preceding 24 months and owed an account balance that was not paid in full when service was terminated. Subsection (2)(b) of this rule does not apply to a customer who registered a dispute with the Commission within 60 days after service was terminated and who paid all undisputed or adjudicated amounts; or

(c) The applicant or customer was previously terminated for theft of service by any Oregon water/wastewater utility as defined in ORS 757.005, was found to have tampered with the meter or other water/wastewater utility facilities, or was otherwise found to have diverted water/wastewater utility service.

(3) In lieu of paying a deposit, an applicant or customer may provide the water/wastewater utility a written surety agreement from a responsible party to secure payment in an amount equal to two months' average usage. For purposes of section (3) of this rule, a responsible party is a customer with the same water/wastewater utility who meets one of the qualifying conditions outlined in section (1) of this rule. The surety agreement obligation will automatically terminate should the responsible party no longer meet the conditions set forth herein. In the event a responsible party is subsequently found not to qualify, the applicant or customer will be required to either pay a deposit or obtain a written surety agreement from another responsible party. The surety obligation ceases when the customer establishes good credit.

(4) Deposits for water/wastewater utility service shall not exceed one-sixth the amount of reasonable billing for 12 months at the rates then in effect. The estimate shall be based on the use of the service at the premises during the prior 12 months or on the type and size of the customer's equipment that will use the service. Each deposit shall be rounded to the nearest whole dollar.

(5) A new or additional deposit, calculated as provided by sections (4) of this rule with the most recent information available, may be required from a customer as a condition of continued service when:

(a) The water/wastewater utility discovers that the customer gave false information to establish an account and/or credit status;

(b) The water/wastewater utility discovers that the customer has stolen water/wastewater utility service, has tampered with the meter or other water/wastewater utility facilities, or was otherwise found to have diverted water/wastewater utility service; or

(c) A customer moves and the anticipated bill at the new residence will be at least 20 percent greater than the basis of the existing deposit.

(6) Paying a deposit does not excuse a customer from complying with the water/wastewater utility's tariffs or other regulations on file with the Commission, such as the obligation to promptly pay bills.

(7) A water/wastewater utility may file a tariff that contains less stringent deposit requirements than those specified in this rule.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.005 & ORS 757.061
Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

860-037-0045 Interest on Deposits for Residential and Nonresidential Service

(1) Each year, the Commission shall establish an annual interest rate that must be paid on customer deposits. The Commission will base the rate upon consideration of the effective interest rate for new issues of one-year Treasury Bills issued during the last week of October, the interest rate on the most recent issuance of one-year Treasury Bills, or the effective interest rate for the average yield of Treasury Bills of the closest term issued during the last week of October. This interest rate, rounded to the nearest one-half of one percent, shall apply to deposits held during January 1 through December 31 of the subsequent year. The Commission will advise water/wastewater utilities of the changes in the rate to be paid on customer deposits held as needed.

(2) Upon payment of a deposit, the water/wastewater utility shall provide the customer documentation showing the date, name of the customer or applicant, the service address, the amount of deposit, a statement that the deposit will accrue interest at the rate prescribed by the Commission, and an explanation of the conditions under which the deposit will be refunded.

(3) If the deposit is held beyond one year, accrued interest will be paid by a credit to the customer's account. If held less than one year, interest will be prorated. A water/wastewater utility shall keep a detailed record of each deposit received until the deposit is credited or refunded.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.005 & ORS 757.061
Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

860-037-0070

Interruption of Service

(1) A water/wastewater utility shall keep a record of any interruption of service affecting its whole system, or a major section thereof, including a statement of the date, time, duration, and cause of interruption, remedy, and steps taken to prevent recurrence.

(2) A water/wastewater utility shall make all reasonable efforts to prevent interruptions of service. When such interruptions occur, the water/wastewater utility shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its customers and the general public.

(3) Each water/wastewater utility shall make all reasonable efforts to notify every customer affected in advance of any scheduled work that will interrupt service, but such notice shall not be required in case of interruption due to emergency repairs or for repairs or maintenance work that results in an interruption of less than five minutes. All scheduled interruptions shall be made at a time causing minimum inconvenience to customers. In determining reasonable notice, the water/wastewater utility shall consider the length of the planned interruption, the type and number of customers affected, the potential impact of the interruption on customers, and other surrounding circumstances. Notice may be given in writing, either via US mail or a door hanger on the affected premises, or by contact with the customer or an adult at the residence by personal visit or by telephone.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.005 & ORS 757.061
Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

860-037-0110

Due and Payable Period; Time-Payment Agreements for Residential Service

(1) Each water/wastewater utility shall establish procedures to ensure that the period from the billing transmittal for all current charges, including payment of the final bill, to the due date is not less than 15 days. If the bill is delivered by US mail, the due and payable period begins the day after the US Postal Service postmark or the day after the date of postage metering.

(2) A water/wastewater utility may not disconnect residential water service for nonpayment of wastewater service charges if a customer enters into a written time-payment plan. A water/wastewater utility will offer customers a choice of payment agreements. At a minimum, the customer may choose between a levelized-payment plan and an equal-pay arrearage plan.

(3) A customer who selects a levelized-payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter:

(a) The monthly installment plan shall be reviewed by the water/wastewater utility periodically. If necessary, due to changing rates or variations, the installment amount may be adjusted in order to bring the account into balance within the time period specified in the original agreement;

(b) If a customer changes his/her service address at any time during the period of a time-payment agreement, provided that payments are then current and the customer pays other scheduled or tariffed charges associated with the change in residence, the water/wastewater utility shall recalculate the customer's deposit or monthly installment. The recalculated amount shall reflect the balance of the account at the previous service address and the average annual bill at the new service address for the months remaining in the original time-payment agreement. When installments on a time-payment agreement have not been kept current, a customer shall be required to pay all past-due installments, together with any other applicable charges before service is provided at the new residence.

(4) A customer who selects an equal-pay arrearage plan will pay a down payment equal to 1/12 the amount owed for past water/wastewater utility service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer). Each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for wastewater service. If a customer changes his/her service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the water/wastewater utility provides service at the new address.

(5) The water/wastewater utility and customer may agree in writing to an alternate payment arrangement, provided the water/wastewater utility first informs the customer of the availability of the payment terms set forth in sections (3) and (4) of this rule.

(6) If a customer fails to abide by the wastewater time-payment agreement, the water/wastewater utility may disconnect water service after serv-

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ing a 15-day disconnect notice. The notice shall comply with OAR 860-037-0245, except that subsection (5)(d) shall not be applicable. Such customers shall not be eligible for a renewal or renegotiation of a time-payment plan.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.005 & ORS 757.061
Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 16-2003, f. & cert. ef. 10-1-03

Adm. Order No.: PUC 17-2003(Temp)
Filed with Sec. of State: 10-1-2003
Certified to be Effective: 10-1-03 thru 3-29-04
Notice Publication Date:

Rules Adopted: 860-038-0270
Subject: This rule implements HB 3376 relating to direct access. It establishes a date on which all electric companies must announce their electricity prices to be charged for the next calendar year, requires that retail electricity consumers must have at least three business days after the date set by the Commission to elect whether to use direct access or purchase electricity from an electric company, and requires all electricity service suppliers (ESSs) and electric companies to announce estimated prices for electricity in the next calendar year at least five days before the date set by the Commission.
Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-038-0270 Direct Access Annual Announcement and Election Period

(1) On November 15 of each year (or the next business day if November 15 falls on a Saturday, Sunday or legal holiday as defined by ORS 187.010), by no later than 2 p.m., each electric company must announce the prices to be charged for electricity services in the next calendar year. The date on which the electric companies are required to announce such prices is "the Announcement Date."

(2) Electric companies must allow retail electricity customers that are eligible for direct access at least five business days after the Announcement Date to choose service under a cost-of-service rate option or to purchase electricity from either an electricity service supplier through direct access or an electric company through a standard rate offer.

(3) At least five business days before the Announcement Date, electric companies and electricity service suppliers must announce, and post on a web site, estimates of prices for electricity services in the subsequent calendar year, or subsequent contract period if different than a calendar year:

(a) Each electric company and electricity service supplier must continuously post the estimated prices announced under this rule on a website until the Announcement Date.

(b) Electric companies' estimated prices will be the companies' estimates of the electricity service prices that will be in effect for the calendar year subsequent to the Announcement Date.

(c) Electricity service suppliers will determine estimated prices that will allow electricity consumers to compare the estimated prices of the electric company and electricity service supplier for the subsequent calendar year, or contract period if different than a calendar year.

(d) Announcing estimated prices as required by this rule creates no obligation on the part of the electric companies and/or electricity service suppliers to provide electricity service to any consumer at the estimated prices.

(e) If an electricity service supplier does not intend to sell electricity services in the subsequent calendar year or contract period, the electricity service supplier must announce, and post on a web site, that it does not intend to sell electricity services in the subsequent calendar year or contract period.

(4) Thirty days prior to the Announcement Date, electric companies and electricity service suppliers shall provide to the Commission a URL address for a web site where the individual electric company or electricity service supplier will post prices and announcements as prescribed by this rule. The Commission will post the URL addresses on its web site.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040 & ORS 757.600 – ORS 757.667 & HB 3376
Hist.: PUC 17-2003(Temp), f. & cert. ef. 10-1-03 thru 3-29-04

Adm. Order No.: PUC 18-2003
Filed with Sec. of State: 10-6-2003
Certified to be Effective: 10-6-03
Notice Publication Date: 8-1-03

Rules Adopted: 860-036-0407

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

Subject: This rulemaking relates to water regulation. It adds new definitions, makes clarifications, establishes regulatory rate thresholds, adds and revises customer notification requirements, and makes other housekeeping changes.

Rules Coordinator: Lauri Salisbury—(503) 378-4372

860-036-0010 Definitions for Water Utilities and Associations

As used in Division 036:

(1) "Actual cost" means the direct cost of parts, materials and labor of a specific item or project separated from indirect costs.

(2) "Applicant" means a person who:

(a) Applies for service with a utility; or

(b) Reapplies for service at a new or existing location after service has been discontinued.

(3) "Association" means an incorporated or homeowner association providing water service, as defined in ORS 757.005.

(4) "Co-customer" means a person who meets the definition of "customer" and is jointly responsible with another person for payments for water utility service on an account with the water utility. If only one of the co-customers discontinues service in his/her name, the remaining co-customer shall retain customer status only if he/she reapplies for service in his/her own name within 20 days of such discontinuance provided the water utility contacts the co-customer or mails a written request for an application to the remaining co-customer within one business day of the discontinuance.

(5) "Commercial customer" means a customer who performs or produces a service or product that is a source of revenue, income or livelihood to the customer or others using the premises.

(6) "Commission" means the Public Utility Commission of Oregon.

(7) "Contributions in aid of construction" means any money, services or property received by a water utility to fund capital investments at no cost to the company with no obligation to repay.

(8) "Cooperative" means a cooperative corporation as defined in ORS Chapter 62.

(9) "Cost-based" means the direct and indirect costs of a specific item or project, including overhead and a reasonable expected return on investment.

(10) "Customer" means a person who has applied for, been accepted, and is currently receiving service unless otherwise noted. Notwithstanding section (1) of this rule, a customer who voluntarily disconnects service and subsequently asks for service with the same water utility at a new or existing location within 20 days after disconnection retains customer status.

(11) "District" means a corporation as defined under ORS Chapter 553.

(12) "Emergency" means an extraordinary interruption of the usual course of water service by a natural cause, an unforeseen event, or a combination of unexpected circumstances; an urgent need for assistance or relief; or the resulting state that calls for immediate action.

(13) "End-user" means a domestic water user.

(14) "Exempt water company" means a water company that meets the definition of a public utility in ORS 757.005, but is exempt from regulation as provided in ORS 757.005(1)(b)(E).

(15) "Forced connection" means a water utility or its customers being required by law, regulation, rule, or company policy to retrofit, improve, or change the original service connection. All retrofits, improvements, additions or changes to the original service connection will be the operational and financial responsibility of the company, with the following exceptions (1) any national or state laws or rules clearly assigning such costs to the customer, or (2) the Commission otherwise approves as provided in OAR 860-036-0105(1) and (2).

(16) "Formal complaint" means a written complaint filed with the Commission's Administrative Hearings Division.

(17) "Large commercial customer" means a commercial customer with a meter or pipe diameter of two inches or larger.

(18) "Mainline extension" means the extension of a main line to an area not previously served. If the main line extension is required at the

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request of a potential customer to receive service, the cost of such extension shall comply with the water utility's main line extension policy.

(19) "Meter set" means the parts, material, and labor necessary to install a meter. The meter set assembly is owned, installed, and maintained by the utility. The meter set does not include any components of the service connection required to provide unmetered service.

(20) "People's utility district" (PUD) means a corporation as defined in ORS Chapter 261.

(21) "Public utility" has the meaning given the term in ORS 757.005. The term does not include districts, PUDs, cooperatives, or municipalities.

(22) "Rate-regulated utility" means a water utility that is not exempt from certain financial regulations and conditions under ORS 757.061.

(23) "Registered dispute" means an unresolved issue between a customer or applicant and a water utility that is under investigation by the Commission's Consumer Services, but is not the subject of a formal complaint.

(24) "Residential customer" means a customer who receives domestic or irrigation water in residential areas and is not considered a commercial customer.

(25) "Small commercial customer" means a commercial customer with a meter or pipe diameter of less than two inches.

(26) "System development fee or charge" is the proportionate fee charged by a water company prior to service being initiated that encompasses the cost of the system allocated to all potential customers.

(27) "Utility" means any water utility, except when a more limited scope is explicitly stated.

(28) "Water utility" has the same meaning as public utility in section (21) of this rule, except if a more limited scope is explicitly stated.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 695, OL 1999, ORS 756.040 & ORS 756.105
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 9-2001, f. & cert. ef. 3-21-01; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0015

Information for Customers and Applicants

(1) Upon request, the water utility shall furnish a customer or applicant with an application for service and such information as is reasonable to permit them to secure efficient service.

(2) Upon request, the water utility providing metered service shall inform its customers or applicants how to read meters, either in writing or by explanation at the water utility's office(s).

(3) A water utility shall keep on file and open for public inspection at its office(s): complete rate schedules, service application forms, contract forms, rules and regulations of the utility, and a copy of the Commission's rules and regulations.

(4) Upon request, the water utility shall supply a copy of its approved tariffs or statement of rates applicable to the type or types of service furnished to the customer.

(5) Upon application for new service, or upon later request, the water utility shall assist the customer or applicant in selecting the most advantageous rate to meet individual service requirements. The customer or applicant shall be responsible for making the final selection of an applicable rate schedule.

(6) When service is initiated and not less than once each year thereafter, a water utility shall give its customers a written summary of their rights and responsibilities as they relate to the water utility providing service. If service is initiated without a personal contact between the utility and the customer, the utility shall mail the summary to the customer no later than when the first bill statement is mailed. The summary shall include the text approved by the Commission's Consumer Services and describe:

(a) The customer's option to designate a third party to receive bills and notices and the availability of notices in languages other than English;

(b) Special payment options such as equal payment plans. Any late-payment charges shall be explained, along with the availability of any preferred billing date option;

(c) Procedures for conflict resolution, including how to register a dispute with the utility and with the Commission and the toll-free number of the Commission's Consumer Services.

(7) Water utilities exempt from rate regulation pursuant to ORS 757.061 and serving less than 500 customers shall annually notify their customers of the customers' right to petition the Commission for rate regulation provided the utility charges exceed the threshold levels established by the Commission in OAR 860-036-0030.

(8) When service is initiated, the water utility shall inquire if the customer would like to receive notices in a language other than English and

will inform the customer of the types of notices and translations currently available. If the language chosen is not available, the utility will inform the customer or applicant that the translated version does not yet exist, but that the customer's or applicant's interest will be recorded for the Commission. Each utility shall report to the Commission the number of requests for notices and summaries in non-English languages. The report shall specify the number of requests for each language.

(a) The Commission will translate the Rights and Responsibilities Summary for Oregon Utility Consumers into the designated non-English languages and provide copies to water utilities. The information published by a water utility pursuant to OAR 860-036-0015 shall prominently display the following statement in the designated non-English languages at the beginning of the summary and be printed in boldface: A version of the Rights and Responsibilities Summary for Oregon Utility Consumers printed in this language is available by calling (name of utility) at (phone number).

(9) Each water utility shall maintain a business location and a regular telephone number at which it may be contacted directly by customers, applicants, or the Commission during its regular business hours. The water utility shall respond to nonemergency customer inquiries, complaints, and service problems within a reasonable time period. For purposes of this rule, a reasonable time period is considered to be within 24 hours.

(10) The water utility shall provide a means by which it may be contacted at any hour in the event of a service failure or emergency or at which a customer or applicant may leave a message reporting such failure or emergency. The water utility shall respond to emergency calls or messages within one hour of the time of the call or message, unless extenuating circumstances exist that prevent such response. The water utility may be required to justify extenuating circumstances to the Commission's satisfaction.

(11) In the event of an emergency involving all customers, a major portion of customers, or a specific geographical area of customers, the water utility shall use its best efforts to communicate and provide information to all affected customers as soon as possible.

(12) Notices approved by the Commission shall be posted in a conspicuous place in each water utility office where credit matters are transacted, setting forth the rights and responsibilities of customers under these rules. The notices shall be printed and shall be written in language that is easy to understand.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0025

Dispute Resolution

(1) When a dispute occurs between a customer or applicant and a water utility about any bill, charge, or service, the water utility shall thoroughly investigate the matter and promptly report the results of its investigation to the customer or applicant. The water utility shall prepare a written record showing the name and address of the customer or applicant involved, the date and character of the dispute, and the disposition of the matter. The utility shall retain records of the dispute pursuant to OAR 860-036-0760.

(2) The water utility shall inform the customer or applicant of the right to a water utility supervisory review of any dispute, including but not limited to, establishment of credit and termination of service. If a dispute is not resolved, the water utility shall notify the customer or applicant of the Commission's dispute resolution procedure and its toll-free telephone number.

(3) A customer or applicant may request the Commission's assistance in resolving the dispute by contacting the Commission's Consumer Services at:

(a) 1-800-522-2404; TTY 711;

(b) The Commission's mailing address: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148; or

(c) The Commission's street address: Public Utility Commission of Oregon, 550 Capitol Street NE Suite 215, Salem, OR 97301-2551. The Commission shall notify the water utility upon receipt of such a request.

(4) The Commission's Consumer Services shall assist the complainant and the water utility in an effort to reach an informal resolution of the dispute.

(5) If a registered dispute cannot be resolved informally, the Commission's Consumer Services shall advise the complainant of the right to file a formal written complaint with the Commission. The complaint

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shall state the facts of the dispute and the relief requested. The water utility shall answer the complaint within 15 days of service of the complaint. The matter shall then be set for hearing. A hearing may be held on less than 10 days' notice when good cause is shown.

(6) Pending resolution of the dispute, the complainant's obligation to pay undisputed amounts continues.

(7) A customer who has a registered dispute or formal complaint pending with the Commission shall be entitled to continued or restored service provided:

(a) Service was not terminated for theft of service or failure to establish credit;

(b) A bona fide dispute exists in which the facts asserted by the customer entitle the customer to service;

(c) When termination is based on nonpayment, the customer makes adequate arrangement to avoid future loss to the water utility, such as prepaying estimated monthly water utility charges; and

(d) The customer or applicant diligently pursues conflict resolution under the Commission's rules.

(8) If the conditions in section (7) of this rule are not satisfied, the water utility has no obligation to provide continued service. A water utility discontinuing service because of a failure to meet the conditions of subsections (7)(c) or (7)(d) of this rule shall give the customer a five-business-day disconnect notice. The notice shall be served in the same manner as provided by OAR 860-036-0245, except that it need only describe the defect in performance, the date and time when water utility service will terminate and the toll-free number of the Commission's Consumer Services. In deciding whether the conditions are met, the water utility shall consult with the Commission's Consumer Services. The customer who has filed a formal complaint, the water utility, or the Commission's Consumer Services may ask the Commission for a hearing to decide if the conditions are met. Unless extraordinary circumstances exist, the hearing will be conducted by telephone conference within three business days from the date requested. Notice of hearing will be given to the customer, the water utility, and the Commission's Consumer Services at least 12 hours before the date and time of the hearing. Notice is effective when given in person, by telephone, or in writing delivered to the party's last known address. Mailed notice is effective two days after deposit in the U.S. mail, excluding Sundays and holidays.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 756.500 & ORS 756.512
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0030

Threshold Levels of Rates and Charges for Water Utilities Serving Fewer than 500 Customers

(1) Pursuant to ORS 757.061(2) the Commission adopts the following maximum rates and charges for water utilities serving fewer than 500 customers:

(a) \$24 annual average monthly residential or small commercial service rate;

(b) \$85 annual average monthly service rate for large commercial customers; and

(c) \$300 for standard service connection charge.

(d) Any system development fee, facilities charge, or other like charge shall be cost based and demonstrated as such to the Commission's satisfaction upon request of the Commission.

(2) A standard service connection is defined in OAR 860-036-0060.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 757.061
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0045

Deposit Payment Arrangements for Residential Water Service

(1) When a water utility requires a deposit, the customer or applicant may pay the deposit in full or in three installments. Installments shall be one-third the deposit. The first installment is due immediately; the remaining installments are due 30 days and 60 days after the first installment payment.

(2) When an installment payment for a deposit or a deposit is made with a payment for water utility service, the amount paid shall first be applied toward payment of the amount due for deposit.

(3) A customer who is required to pay an additional deposit shall pay one-third of the total deposit within five days. The remainder of the deposit is due under the terms of section (1) of this rule. If the customer has an existing deposit installment agreement, the remaining installment payments

will be adjusted to include the additional deposit; however, two installment payments cannot be required within the same 30-day period.

(4) If a customer is disconnected by the water utility for theft of service, the water utility may require the customer to pay a deposit in addition to any overdue charges on the customer's account and repair charges as explained in OAR 860-036-0250. This deposit may be paid in one payment or in two equal installments. The deposit or first deposit installment is due upon restoration of service and the second installment is due within 30 days of the restoration of service.

(5) When a customer enters into an installment agreement for payment of a deposit under section (1) of this rule, the water utility shall provide written notice explaining the deposit requirements. The notice shall specify the date each installment payment shall be due and shall include a statement printed in bold-face type informing the person that water service will be disconnected if payment is not received when due.

(6) If a customer or applicant fails to abide by the terms of a deposit installment agreement, the water utility may disconnect service after providing a written five-business-day disconnect notice. The notice shall comply with the requirements of OAR 860-036-0245.

(7) When good cause exists, the water utility may provide, or the Commission may require, more liberal arrangements for payment of deposits than those set forth in this rule. The water utility shall keep a written record of the reasons for such action.

(8) If disconnection for nonpayment of a deposit occurs, the customer or applicant disconnected shall pay the full amount of the outstanding deposit, any applicable reconnection fee, late-payment fee, and past due amount before service is restored. A customer may continue with an existing time-payment agreement by paying all past-due installments.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0060

Installation of Water Service Connection

(1) A water utility will, with the exceptions listed below, furnish and install at its own expense all necessary trenching, pipe, valves and fittings between its main line and the customer service line. Such installation shall be designated as "service connection." The water utility shall own, operate, maintain, repair, and replace the service connection when needed.

(2) A water utility may require the customer to pay a reasonable service connection charge to offset its expenses listed in section (1) of this rule. Such charge shall not include the cost or installation of the meter, nor exceed the threshold level established in OAR 860-036-0030. The meter is not considered to be a component of the service connection.

(3) A standard service connection charge that exceeds the threshold level established in OAR 860-036-0030 may be deemed unreasonable and may be subject to refund, unless exempted below.

(4) Notwithstanding section (2) of this rule, a water utility may charge a service connection charge in excess of the threshold level if:

(a) Circumstances exist that cause the service connection to be non-standard;

(b) Such charge is based on actual cost and is reasonable; and

(c) The water utility and the customer agree on the amount of the charge prior to actual installation.

(5) The water utility shall bear the burden of proof to justify that the charge in excess of the threshold is necessary, reasonable and at actual cost.

(6) Any connection longer than the width of the street, or public highway, or the width of a privately granted easement, located adjacent to the customer property will not be considered a service connection but will be treated as a main line extension. See OAR 860-036-0065.

(7) The customer shall furnish and install the necessary parts and materials to make the connection from the customer's premise to the water utility's service connection at the customer property line. Such installation shall be designated as the "customer service line." The customer shall own, maintain, repair, and replace the customer service line when needed.

(8) A customer service line shall extend to that point on the customer's property line of easiest access to the water utility from its distribution system, or requiring least extension of the system. In any case, where a reasonable doubt exists as to the proper location for the customer service line, the water utility should be consulted and a location agreed upon. If agreement cannot be reached, the water utility and customer shall pursue dispute resolution pursuant to OAR 860-036-0025.

(9) All construction and installation of water service connections shall comply with all applicable rules, regulations, codes, and best practices and standards of the water industry.

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

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Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0080

Refusal of Service

(1) A water utility may refuse to provide service to a customer or applicant until it receives full payment of any overdue amount and any other obligation related to a prior account except as provided below:

(a) When a customer or applicant whose service was terminated applies for service within 20 calendar days of the termination, the water utility shall provide service to an applicant upon receipt of payment equal to at least one-half of any overdue amount. The balance of the amount owed to the utility shall be paid within 30 days of the date service is initiated. Except for the last payment, installments shall be the greater of \$30 or one-half the overdue amount. Upon failure to pay, the water utility may disconnect service after providing a written five-day notice. The notice shall contain the information and be served in the manner prescribed as provided in OAR 860-036-0245.

(2) If water service is disconnected for failure to comply with the payment terms set forth in section (1)(a) of this rule, the water utility may refuse to restore service until it receives full payment of any overdue obligation, including any reconnection fee, late payment fee, and past due bill.

(3) A water utility may refuse to provide service until payment is received when all the following circumstances exist:

(a) The customer has incurred an overdue balance at a service address; and

(b) An applicant for residential service resided at the service address described in subsection (1)(a) of this rule during the time the overdue balance was incurred; and

(c) The residential customer described in subsection (1)(a) of this rule will reside at the location to be served under the new application.

(4) A water utility shall refuse to provide service if a customer or applicant has not complied with state and municipal codes and regulations governing service and with the rules and regulations of the water utility.

(5) A water utility shall refuse to serve a customer or applicant, if, in the best judgment of the water utility, the facilities of the customer or applicant are of such a character that safe and satisfactory service cannot be given.

(6) If service is refused, the water utility shall provide written notification within 10 business days to the customer or applicant of the reasons for refusal and of the Commission's complaint process. A copy of the notice shall also be sent to the Commission unless service was refused for non-payment.

(7) A water utility shall not accept an application for service or materially change service to a customer if it does not have adequate facilities or water resources to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect service to other customers.

(a) If a water utility refuses service on the grounds of inadequate facilities or water resources, the water utility shall: Provide the customer or applicant with a written letter of refusal, a copy of which shall be sent to the Commission, stating:

(A) The reason for the refusal;

(B) The customer or applicant may request the details upon which the water utility's decision was based, including but not limited to current capacity and load measured in gallons or cubic feet per minute and pounds per square inch (psi);

(C) When capacity does not exist, provide the costs to provide capacity for the customer or applicant; and

(D) Inform the customer or applicant that he/she may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.035 & ORS 757.225
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2002, f. & cert. ef. 9-9-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0105

Use of Water Meters

(1) Unless otherwise authorized by the Commission, each water utility will own, maintain, and operate all equipment needed to regulate and measure water to its customers. When the water utility furnishes additional meters or relocates meters for the customer's convenience, the water utility may make a reasonable charge for such meters and installation.

(2) No water utility shall charge for furnishing, installing, or maintaining any meter or other appliance for measurement purposes except by

the Commission's permission, or as provided in OARs 860-036-0060 and 860-036-0070.

(3) If the Commission determines that refunds are appropriate, the amount paid shall be refunded to the customer by allowing a credit of one-half of the monthly bill until the amount has been paid, provided such refund payments do not run for more than three years from the date when the refund began.

(4) No rental fee shall be charged by any water utility for any meter or appliance installed by the water utility and used as a basis for the rendering of bills, except when an additional meter or appliance is requested by the customer for his/her convenience.

(5) The water utility shall have the right to set meters or other devices for detecting and preventing fraud or waste, without notifying the customer.

(6) No water utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the Commission.

(7) If damage results to the meter from tampering or willful neglect by the customer, the water utility shall repair or replace the meter and may bill the customer for the reasonable cost.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040 & ORS 757.225
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 18-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0210

Voluntary Disconnection

(1) A customer who wishes to have service discontinued will provide the water utility a five-business-day notice in advance of the requested date of discontinuance of service. Until the water utility receives such notice, the customer shall be held responsible for all service rendered.

(2) A water utility is not required to implement seasonal water service rates.

(3) Nonseasonal water service rates are calculated based on continuous service throughout a 12-month period. A water utility is entitled to charge monthly base rates to any customer requesting disconnection and reconnection of water service during the same 12-month period prior to reconnection.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0240

Reconnection Fee

When a water utility service is disconnected pursuant to OAR 860-036-0245 or 860-036-0250, the water utility may charge the reconnection fee in its tariff or in its statement of rates.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040 & ORS 757.225
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0245

Disconnection Procedures for All Customers of Water Utility Services

(1) Involuntary termination of water utility service for all customers shall be under the provisions of this rule.

(2) Notice Requirements:

(a) At least five business days before a water utility disconnects service, a written disconnect notice must be provided to the customer to be disconnected;

(b) Before a water utility disconnects service due to a customer's failure to abide by a time-payment agreement, the water utility will provide the customer with a written 15-business-day disconnect notice and a written five-business-day disconnect notice;

(c) The disconnection notice shall inform the customer that service will be disconnected on or after a specific date and shall explain the alternatives. The specified date must conform to OAR 860-036-0220, disconnection of service on Fridays, weekends and holidays.

(3) The water utility may serve the notice of disconnection in person or send it by first class mail to the last known addresses of the customer and the customer's designated representative. Service is complete on the date of mailing or personal delivery. If notification is made by delivery to the residence, the water utility shall attempt personal contact. If personal contact cannot be made with the customer or an adult resident, the water utility shall leave the notice in a conspicuous place at the residence.

(4) When a written notice is given under these rules:

(a) The notice shall conform to the requirements of OAR 860-036-0235 concerning multilingual requirements and service on any designated representative; and

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(b) The notice shall conform to the requirements of OAR 860-036-0230 if the water utility's records show that the billing address is different than the service address or that the premises is a master-metered multi-unit dwelling. The notice may be addressed to "Tenant." The envelope shall bear a bold notice stating, "Important notice regarding disconnection of utility service," or words to that effect.

(5) The notice shall be printed in bold face type and shall state in easy to understand language:

- (a) The reason for the proposed disconnection;
- (b) The amount to be paid to avoid disconnection;
- (c) The earliest date for disconnection;
- (d) An explanation of the time-payment agreement provisions of

OAR 860-036-0125; and

(e) An explanation of the Commission's dispute resolution process and toll-free number.

(6) A notice of disconnection may not be sent prior to the due date for payment of a bill.

(7) At least five-business-days before the proposed disconnection date, the water utility must mail or deliver a written disconnection notice to the customer.

(8) A fee in an amount approved by the Commission may be charged whenever a water utility is required to visit a residential service address in order to serve a disconnection notice.

(9) On the day that the water utility expects to disconnect service and prior to disconnection, the water utility must make a good faith effort to personally contact the customer or an adult at the residence to be disconnected.

(a) If the contact is made, the water utility shall advise the person of the proposed disconnection; or

(b) If contact is not made, the water utility must leave a notice in a conspicuous place at the residence informing the customer that service has been, or is about to be, disconnected.

(10) Where personal contact is made by a water utility under this rule, and the circumstances are such that a reasonable person would conclude that the customer does not understand the consequences of disconnection, the water utility must:

(a) Notify the Department of Human Services and the Commission; and

(b) Delay the proposed disconnection date for five additional business days.

(11) When personal contact is made by the water utility under this rule, the representative of the water utility making contact shall be authorized to accept reasonable partial payment of the overdue balance in accordance with the time-payment provisions.

(12) A water utility must document its efforts to provide notice under this rule and shall make that documentation available to the customer and the Commission upon request.

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

Stats. Implemented: ORS 756.040, ORS 757.750 & ORS 757.755

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0305

Maintenance and Repair of Plant and Equipment

(1) A water utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service.

(2) A water utility shall inspect its plant, distribution system, and facilities in such manner and with such frequency as necessary to ensure a reasonably complete knowledge about the condition and adequacy of the entire system at all times.

(3) A water utility will keep maintenance and repair records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities, except when the Commission specifies a more complete record.

(4) A water utility shall flush dead end mains or other low flow portions of the distribution system as needed or at reasonable intervals to eliminate or minimize complaints from customers or applicants arising from an objectionable condition of water. A water utility must:

(a) Provide prior notification to the customers of all routine (non-emergency) flushings. The notice must include:

(A) The date, time, and approximate duration of the flushings; and

(B) A statement cautioning customers to avoid using water during flushing to prevent debris in the customers' service lines.

(b) Keep a record of the date, place, time, and duration of all routine and emergency flushings.

(5) A water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable. A water utility shall keep records of all inspections, maintenance, repairs, and exercise of each valve and hydrant.

(6) A water utility shall make repairs and perform maintenance to its water system in a timely manner to prevent future damage to the water system; to reduce wear and tear on equipment and water plant; and to minimize customers' inconvenience, loss of water flow, low water pressure, or inadequate service.

(7) A water utility shall communicate with the customer(s) or person(s) reporting service problems, informing the customer(s) or person(s) of:

(a) The source or suspected source of the service problem;

(b) The expected date and time of the repair;

(c) The length of time the repair is expected to take; and

(d) The effect the repairs may have on the customer's service.

(8) All customers whose service is or may be affected by the service problem will be notified by the water utility in the same manner as stated in section (7) of this rule.

(9) The water utility shall make repairs in a timely manner. In case of a dispute, the Commission will determine the reasonable amount of time necessary to make the repair. If the water utility repair is determined to have taken longer than reasonably necessary, the water utility shall provide affected customers with service credits according to OAR 860-036-0330.

(10) The water utility will restore the surrounding area disturbed during utility repairs, maintenance, construction, or installation to its previous or better condition. The customer has the burden of demonstrating that the area has not been restored to its previous or better condition.

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

Stats. Implemented: ORS 756.040 & ORS 757.020

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 22-2001(Temp), f. & cert. ef. 9-26-01 thru 3-24-02; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0405

Notice of Customer's Right to Petition for Full Rate Regulation

(1) At least 60 days before a water utility or otherwise exempt water utility serving less than 500 customers increases its residential rates or charges to a level that exceeds the threshold levels established in OAR 860-036-0030, it shall provide a written notice to all customers. The water utility must provide the Commission with a copy of the notice and a complete and current list of its customers' names and mailing addresses. The notice will advise customers of their right to file a petition to initiate full regulation of the water utility and, at a minimum, must include the following information:

(a) Name of water utility;

(b) A statement that the water utility intends to increase its residential rates and charges;

(c) Current rates and charges to residential customers;

(d) Proposed rates and charges to residential customers;

(e) Date the proposed rates are to become effective (minimum of 60 days);

(f) The reason(s) the water utility is seeking the rate increase;

(g) A statement informing customers of their right to petition the Commission to request that the proposed increase be investigated;

(h) A statement that all customers may submit petitions to the Commission for 45 days from the date of the customer notice;

(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;

(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;

(k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;

(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and

(m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.

(2) Any water utility that fails to provide the notice required in section (1) of this rule prior to increasing rates or charges above the threshold

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level shall be required to reduce such rates or charges to threshold levels and provide notification as required in section (1) of this rule. Failure to reduce rates or charges and provide notice as required may result in refunds of customer charges, civil penalties, or both.

(3) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of the customer notice referred to in sections (1) and (2) of this rule.

(4) The same time the water utility sends notice to its customers, it must provide the Commission with a final copy of the customer notice and a complete and current customer list including names and addresses.

Stat. Auth.: ORS 183, ORS 757 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.750 & ORS 757.755
Hist.: PUC 14-1989, f. & cert. ef. 11-3-89 (Order No. 89-1464; PUC 13-1997, f. & cert. ef. 11-12-97; Renumbered from 860-022-0028; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0407

Notice of Commercial and Other Water Customers' Right to Petition for Full Rate Regulation

(1) At least 60 days before a public utility or otherwise exempt water utility serving less than 500 customers increases its commercial rates or charges to a level that exceeds the threshold levels established in 860-036-0030, it shall provide a written notice to all customers of the customers' right to petition the Commission to initiate rate regulation. Petitions may be submitted to the Commission for 45 days from the date of the customer notice.

(2) At least seven business days prior to sending notice to the customers, the water utility must provide the Commission with a draft copy of its customer notice referred to in section 1 of this rule.

(3) The same time the water utility sends notice to its customers, it must provide the Commission with a final copy of the customer notice and a complete and current customer list including names and addresses.

(4) At a minimum, the notice to the customers must include the following information:

- (a) Name of water utility;
- (b) A statement that the water utility intends to increase rates and charges;
- (c) Current customer rates and charges;
- (d) Proposed customer rates and charges;
- (e) Date the proposed rates are to become effective (minimum of 60 days);
- (f) The reason(s) the water utility is seeking the rate increase;
- (g) A statement informing the customer of their right to petition the Commission to request that the proposed increase be investigated;
- (h) A statement informing the customer that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;
- (i) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;
- (j) A statement that customers may petition the Commission for rate regulation for 45 days from the date of the customer notice;
- (k) A statement that customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded;
- (l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and
- (m) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, PO BOX 2148, SALEM OR 97308-2148.

Stat. Auth.: ORS 183, ORS 757 & ORS 757
Stats. Implemented: ORS 756.040, ORS 757.750 & ORS 757.755
Hist.: PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0410

Relating to Rate Regulation of Water Utility by Customer Petition

(1) As used in this section, "customer" means individual residential dwelling or commercial unit served by the water utility. Hotels, motels, and recreational vehicle (RV) parks shall be deemed one commercial customer, except those individuals who use such facilities as a primary residence shall also be counted as customers.

(2) Once a water utility has exceeded a threshold level and if the Commission did not receive a petition from 20 percent or more of the customers, the customers may submit a petition to the Commission at any time for full rate regulation. Petitioners must be current customers of the water

utility. Such petitions are in effect for one year. Petitions one year or older must be resubmitted to the Commission.

(3) Petitions must be in writing, state the purpose of the petition, and include the customer's name, address, telephone number, and signature.

(4) Individual customer letters may be submitted in lieu of a petition.

(5) If 20 percent of customers petition the Commission, the water utility will be notified by the Commission, in writing, of its change in status to a rate-regulated water utility.

(6) The water utility must file appropriate tariffs pursuant to ORS 757.205 within 60 days after receiving notification from the Commission of its change in regulatory status.

(7) If the water utility fails to file appropriate tariffs within 60 days, the Commission may initiate a tariff filing proceeding on its own motion to establish rates.

(8) Customer petitions filed with the Commission requesting rate regulation of a water utility may not be withdrawn or rescinded.

(9) Existing nonpetitioned rates and charges will be deemed interim rates and may be subject to refund during the pendency of the tariff filing application. The period of refund will begin on the date of the notice requiring a tariff filing sent by the Commission, unless the date the water utility began serving 500 customers can be reasonably determined, and end on the issuance date of the Commission order establishing new rates. Refunds may be limited to those charges and fees, or a portion thereof, paid by customers determined by the Commission to be unreasonable, excessive, or not justified by the water utility's cost. At the discretion of the Commission, any such refund may include interest.

Stat. Auth.: ORS 183, ORS 756 & ORS 757
Stats. Implemented: ORS 756.040
Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0620

Announcement to Customers of Tariff Changes

(1) This rule applies to rate-regulated water utilities as defined in ORS 757.005 and 757.061.

(2) Within 15 days of filing new or revised tariff schedules with the Commission that constitute a general rate revision, a water utility shall inform its customers of the filing. A "general rate revision" is a filing by a water utility that affects all or most of the water utility's rate schedules. "General rate revision" does not include changes in an automatic adjustment clause under ORS 757.210(1) or similar changes in one rate schedule, such as for an amortization, that affect other rate schedules.

(3) A water utility filing a general rate revision shall inform its customers of its filing by:

(a) Insertion of a display announcement, not less than a three column standard advertising unit (SAU) by 10 inch advertisement, at least once in a newspaper of general circulation in the communities served by the water utility; or

(b) An announcement inserted in the water utility's regular billing to its customers; or

(c) An announcement mailed to each customer.

(4) At a minimum, the announcement must include the following information:

(a) The approximate current and proposed average monthly rate for each customer class expressed in dollar terms;

(b) A brief statement of the reasons why the change is sought;

(c) Notification that copies of the water utility's application, testimony, and exhibits are available at its main office;

(d) The mailing address and telephone number customers may use to contact the water utility to receive additional information about the filing;

(e) The water utility's office mailing address and office telephone number;

(f) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and mailing address (PUBLIC UTILITY COMMISSION OF OREGON, ADMINISTRATIVE HEARINGS DIVISION, P.O. BOX 2148, SALEM OR 97308-2148) where customers may request to receive notice of the time and place of any hearing on the matter;

(g) A statement that the purpose of the announcement is to provide customers with general information regarding the water utility's proposed tariffs and the effect the tariff filing may have on the customers; and

(h) A statement that "the calculations and statements contained in the water utility's announcement and filing are not binding on the Commission."

(5) At least seven business days prior to sending the announcement to the customers, the water utility must provide the Commission with a draft

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copy of the announcement referred to in sections (2), (3), and (4) of this rule.

(6) Within 20 days of issuance of the announcement, the water utility shall file an affidavit with the Commission that notice has been given and include a copy of the announcement.

(7) The Commission may waive the requirements of this rule upon a showing by the water utility that the announcement required by this rule has been given with respect to a particular general rate revision, and upon a further showing that additional notice with respect to that rate revision would be duplicative, confusing to customers, and burdensome to the water utility.

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

Stats. Implemented: ORS 756.040

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0710

Notice and Approval Requirements Relating to the Sale, Transfer, Merger, Termination or Abandonment of a Water Service, or Disposal of a Water Utility

(1) Any water utility seeking to terminate, abandon service, or otherwise dispose of a water utility, excluding sales, transfers, or mergers, shall apply to and obtain approval from the Commission prior to such termination, abandonment, or disposal. Application requirements are found in OAR 860-036-0715.

(2) Any rate regulated water utility seeking to sell, transfer, or merge, shall apply to and obtain approval from the Commission prior to such transaction. Application requirements are found in OAR 860-036-0715.

(3) Any water utility that is not rate regulated or exempt shall provide its customers with notice of the sale, transfer, or merger 60 days prior to the closing date of the transaction. The notice shall include the following information:

- (a) Name, address, and telephone number of the water utility;
- (b) Purpose of notice;
- (c) Filing date;
- (d) Proposed effective date of sale (minimum of 60 days);
- (e) Name, address, and telephone number of potential buyer;
- (f) Reason(s) for sale;
- (g) Effect of sale upon customers; and

(h) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.

(4) A water utility otherwise exempt by ORS 757.061 that charges for services in excess of threshold levels established in OAR 860-036-0030, must also provide its customers written notification of the customers' right to petition the Commission for regulatory approval of such transaction at least 60 days prior to the closing date of the transaction. If the Commission receives a petition from at least 20 percent of the customers prior to the closing date of the transaction, the water utility becomes rate regulated and the transaction requires Commission approval.

(5) At least seven business days prior to sending notice to customers, the water utility must provide the Commission with a draft copy of the notice referred to in section (4) of this rule and will include the following information:

- (a) Name, address, and telephone number of the water utility;
- (b) Purpose of notice;
- (c) Proposed filing date;
- (d) Proposed effective date of sale;
- (e) Name, address, and telephone number of potential buyer;
- (f) Reason(s) for sale;
- (g) Effect of sale upon customers;
- (h) A statement informing customers of their right to petition the Commission for regulatory approval of the transaction;

(i) A statement informing customers that if 20 percent or more of total customers petition, the water utility will be subject to rate regulation by the Commission;

(j) A statement that customer petitions should state the purpose for the petition and include each customer's name, address, telephone number, and signature;

(k) A statement that customers' petitions may be submitted to the Commission for 45 days from the date of the customer notice;

(l) A statement that the water utility will provide a complete customer list within 10 days of a request from any customer; and

(m) The Commission's toll-free telephone number (1-800-522-2404) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.

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

Stats. Implemented: ORS 756.040 & ORS 757.480

Hist.: PUC 13-1997, f. & cert. ef. 11-12-97; PUC 15-1998, f. & cert. ef. 8-27-98; PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0900

Service Territory Allocation

(1) For purposes of service territory allocation OAR 860-036-0900 through 860-036-0930:

(a) "Allocated territory" means an approved area with boundaries set out in a Commission order granting an application for the allocation of service territory.

(b) "Community water supply system" means a water source and distribution system, whether publicly or privately owned, that serves more than three residences or other users to whom water is provided for public consumption, including but not limited to schools, farm labor camps, industrial establishments, recreational facilities, restaurants, motels, mobile home parks, or group care homes.

(c) "Utility service" means service provided by a water utility as defined in subsection (1)(d) of this rule, any equipment, plant, or facility for the distribution of water to users through a connected and interrelated distribution system. "Utility service" does not include service provided through or by the use of any equipment, plant, or facilities solely for the production and sale of water to other water utilities.

(d) "Water utility" as used in OAR 860-036-0900 through 860-036-0930 means any water system that meets the definition of a water utility in ORS 758.300.

(2) The requirements of this rule apply to all water utilities.

(3) A water utility providing water service shall make application to the Commission, on forms provided by the Commission, for an order designating the territory it serves adequately and exclusively as its exclusive service territory.

(4) The Commission shall recognize the service territory of a water utility that has an existing franchise as of October 23, 1999, with a municipality as an exclusive service territory. Upon application, any such water utility may request an order from the Commission to designate exclusive service territory in addition to those identified in the franchise agreement, if the water utility is providing adequate and exclusive service to areas outside the areas identified in the franchise agreement.

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

Stats. Implemented: ORS 758.300 - ORS 758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 8-2002, f. & cert. ef. 2-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

860-036-0905

Original Application Requirements

(1) A completed application requesting an exclusive service territory for area the water utility is currently serving shall include the following:

(a) The water utility's complete name, address, and telephone number;

(b) The nature of the water utility's business organization, that is, corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(c) The name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the water utility;

(d) A statement showing the financial and technical ability of the applicant to provide service to the current territory;

(e) A detailed map or maps of the water system showing the existing lines and facilities;

(f) A detailed map or maps identifying the boundaries of the water utility's current service territory marked with a fine-tipped RED pen. The map must identify the map source and the date of the map in the upper left corner of the map. Appropriate maps may include: a GIS map, city or county map, tax lot map, plat map, or telephone book map. The map must be of sufficient scale and detail to identify the utility's current service territory boundaries and enable correlation with a written description of such territory;

(g) A complete and accurate written description of the water utility's current service territory. The description may be a legal description or may reference township, range, and section; interstates, state roads, and local

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streets; rivers, streams, and major bodies of water; and recorded plats or lots, tracts, or other recorded instruments identifying permanent fixtures references;

(h) Evidence that the water utility owns the land upon which the water utility facilities are located, or a copy of an agreement that provides for the continued use of the land, such as an easement or 99-year lease;

(i) A schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the current service territory is fully occupied; and

(j) The name and address of the nearest municipality, county, any known planning councils, any known governmental authorities having concern with the application, and all known water utilities and community water supply systems in the general area of the current service territory.

(2) The application may also include any adjacent territory that the water utility plans to serve within six months following the date of the application:

(a) If another water utility or community water supply system is not serving such territory; and

(b) If the applicant demonstrates that it is more economical and feasible to serve the area by an extension of the applicant's existing facilities than by an extension of the facilities of another water utility or community water supply system. Application requirements for expanded service territory are contained in OAR 860-036-0915.

(3) Within 15 days of making its proposed service territory filing pursuant to OAR 860-036-0906, a water utility must provide written notice to its customers by mail or hand delivery. The notice shall include the following information:

(a) Name, address, and telephone number of water utility;

(b) The purpose of the notice;

(c) An accurate and detailed written description of the territory applied for;

(d) Filing date;

(e) A statement that customers may file a protest with the Public Utility Commission of Oregon; and

(f) The Commission's toll-free telephone number (1-800-522-2404; TTY 711) and address. The Commission's street address is: Public Utility Commission of Oregon, 550 Capitol St NE Suite 215, Salem, OR 97301-2551. The Commission's mailing address is: PUBLIC UTILITY COMMISSION OF OREGON, CONSUMER SERVICES, PO BOX 2148, SALEM OR 97308-2148.

(4) The water utility's application to the Commission must include a copy of the notice to customers and a customer mailing list.

(5) In reviewing a completed application submitted under Chapter 695 Sections 2-4, Oregon Laws 1999 for current exclusive service territory, the Commission shall consider the applicant's ability to provide adequate and exclusive service to its existing customers which may include but is not limited to, financial resources, technical ability, customer service history, physical facilities, system capacity, revenue and cost studies, and system compliance with the Oregon Health Division's water rules and regulations.

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

Stats. Implemented: ORS 758.300 - ORS 758.320

Hist.: PUC 9-1999(Temp), f. 10-22-99, cert. ef. 10-23-99 thru 4-19-00; PUC 6-2000, f. 4-18-00, cert. ef. 4-20-00; PUC 13-2002, f. & cert. ef. 3-26-02; PUC 18-2003, f. & cert. ef. 10-6-03

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Racing Commission
Chapter 462

Adm. Order No.: RC 5-2003

Filed with Sec. of State: 10-13-2003

Certified to be Effective: 10-13-03

Notice Publication Date: 8-1-03

Rules Amended: 462-140-0390

Subject: Amends the greyhound racing rule to be consistent with horse racing rule as it relates to having a financial interest in racing animals by employees, officers or directors of a race meet licensee.

Rules Coordinator: Carol N. Morgan—(503) 731-4052

462-140-0390

Race Meet Licensee

(1) License Application. Applications for racing dates must be in the office of the commission at least 45 days prior to the proposed race meet. However, this deadline may be waived by the commission for good cause.

(2) Racing Officials. The race meet licensee shall submit to the commission the names of all proposed racing officials, except commission

employees, at least 30 days prior to the first day of racing, unless otherwise requested by the commission. Substitutions of racing officials may be made from time to time as provided in OAR 462-140-0060(10).

(3) Safe and Clean Facilities. The race meet licensee shall provide all facilities necessary for the proper conduct of a race meet and shall take every reasonable precaution to make all areas of the racecourse safe and shall ensure that the paddocks, lock-out kennels, starting boxes, and other equipment with which greyhounds may come in contact are kept in a clean condition and free of dangerous surfaces. The race meet licensee shall keep the grounds of the race course in a reasonably clean condition.

(4) Commission Offices. The race meet licensee shall provide adequate office space properly equipped and maintained for the use of the commission and its designated representatives. Office space includes, but is not limited to, general offices and judges' office. Upon request, the race meet licensee shall furnish suitable space and accommodations for fingerprinting and photographing license applicants.

(5) First Aid. During the race meet the race meet licensee shall provide and equip a first aid room within the racecourse and shall have present on the premises a licensed physician, registered nurse or a paramedic.

(6) Totalizator. The race meet licensee shall maintain a satisfactory totalizator system, including a tote board.

(7) Post-Race Test Area. The race meet licensee shall furnish a post-race receiving area approved by the commission veterinarian, with sufficient facilities to safely collect, store and secure saliva, urine, and/or blood samples from racing animals.

(8) Uniforms; Blankets. The race meet licensee shall provide clean uniforms for lead-outs and shall provide racing blankets for greyhounds.

(9) Photofinish; Timing Devices. The race meet licensee shall provide light at the finish line for nighttime racing in a sufficient amount as determined by the board of judges and shall install two automatic timing devices approved by the commission. For official schooling races, the race meet licensee shall provide at its own expense a photofinish camera approved by the commission. (The cost of photofinish for pari-mutuel races shall be an expense of the commission).

(10) Tip Sheets. The race meet licensee may contract with no more than two persons to sell tip sheets on the racecourse during a race meet. Tip sheets obtained from out of state host tracks which are part of the race meet licensee's simulcast program shall not count against the limit of two tip sheets. The race meet licensee shall provide booths and utilities for the tip sheet sellers, and may charge a reasonable fee for their use. The race meet licensee shall not allow anyone to sell tip sheets who is not licensed by the commission and shall not allow tip sheets to be sold in wagering areas. Tip sheets must be sold from a booth, and the previous day's sheets and outcomes must be displayed on the front of each booth. Tip sheets must be independently handicapped, and each handicapper must sign and deliver such sheet at least one hour before post time to the commission office located on the racecourse.

(11) Security. The race meet license shall provide a sufficient number of security personnel to provide adequate security for all areas of the racecourse, including parking lot areas. The race meet licensee and its security personnel shall cooperate with local authorities and with commission security personnel in enforcing the rules of greyhound racing and the laws of this state, and shall promptly inform the commission security of all violations of ORS chapter 462 and the rules of racing.

(12) Commission Access. Members, employees, and representatives of the commission shall be given full and complete access to any and all areas of the racecourse at which a race meet is being held.

(13) Ejections. The race meet licensee may eject any person from the racecourse for any reason and in any manner that is not contrary to law. The race meet licensee shall notify the commission within 24 hours of any ejection or arrest occurring on the racecourse, including the details thereof.

(14) Program. A program shall be printed for each racing day and shall contain the names of the greyhounds that are to run in each of the races for that day. These names shall appear in the order of their post position, with the post positions designated by numerals placed at the left and in line with the names of the greyhounds in each race.

(a) The program or form sheet must carry at least the two most recent past performances of each greyhound, which may include official schooling from the track at which the greyhound is to race. All past performances shown in the program shall be in the order of the races or official schoolings held, with the last performance appearing on the first line.

(b) The program or form sheet must also contain the name, color, sex, month and year of whelping, breeding, official racing weight, number of starts in official races and number of times finishing first, second and third, name of owner and/or kennel owner, name of trainer, distance of race track

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record, and such other information as will enable the public to properly judge the greyhound's ability. A kennel name shall be carried on the official program with the name, where practical, of a least one owner, and if the kennel name represents more than one owner, it shall be indicated, where practical, by the use of the name of one owner together with the words "et al."

(c) Once the official program is printed and placed for sale to the public, there shall be no changes in the printed program or the racing program unless a greyhound is legally scratched out of the race, except for minor printer's errors.

(d) In no instance will another greyhound be placed upon the program in the place of a scratched greyhound.

(e) All daily programs sold at the racecourse must contain a prominent notice that there is an information window or windows where complaints may be made or filed in writing, with the exact location of these windows set forth in the notice.

(f) All daily programs sold at the racecourse must clearly contain the following:

NOTICE: This race meeting is licensed for 20__, License No. __, by the Oregon Racing Commission and operates under its rules and regulations. The Commission office is located at the Portland State Office Building, Suite 310, 800 N.E. Oregon Street #11, Portland, Oregon 97232.

(15) Attendance Report. The race meet licensee shall make a daily attendance report to the commission.

(16) Qualifying Times. If a race meet licensee wishes to require qualifying times for greyhounds, it shall request approval of those times from the board of judges at least three days prior to the first day of racing unless this deadline is modified by the commission.

(17) Employees Licensed. The race meet licensee shall ensure that each of its employees who is required to be licensed is licensed at the time of employment.

(18) Incorrect Mutuel Prices. The race meet licensee assumes all losses caused by an incorrect posting of mutuel prices.

(19) Conflict of Interest. No employee, officer, or director of a race meet licensee shall be permitted to own, lease, or have any other interest in any greyhound entered for official racing on the race meet licensee's racecourse, unless approved by the commission.

(20) The race meet licensee shall have available current telephone numbers for twenty-four (24) hour emergency veterinarian care. The race meet licensee shall post an established procedure, approved by the commission veterinarian, for providing emergency veterinarian care five (5) days prior to until five (5) days past their race meet.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2003, f. & cert. ef. 10-13-03

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

Adm. Order No.: ELECT 15-2003
Filed with Sec. of State: 10-15-2003
Certified to be Effective: 10-15-03
Notice Publication Date: 8-1-03
Rules Adopted: 165-014-0260

Subject: At the November 5, 2002, General Election the voters approved Measure 26, now codified as Article IV, section 1b of the Oregon Constitution. Section 1b prohibits the payment or receipt of payment on a per-signature basis for signatures obtained on an initiative or referendum petition. This rule is adopted to interpret Section 1b, by providing guidance about the petitions subject to the measure, describing allowable practices for signature collection and providing for penalties for violations.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-014-0260

Interpretation of Article IV, section 1b: Prohibition on Paying or Receipt of Payment based on the Number of Signatures Obtained on an Initiative or Referendum Petition

(1) The purpose of this rule is to interpret Article IV, section 1b of the Oregon Constitution (Measure 26, approved at the General Election on November 5, 2002), a constitutional amendment that provides: "It shall be unlawful to pay or receive money or other thing of value based on the number of signatures obtained on an initiative or referendum petition. Nothing herein prohibits payment for signature gathering which is not based, directly or indirectly, on the number of signatures obtained."

(2) Section 1b applies only to official initiative and referendum petitions filed at the state, county, city or district level. It does not apply to signatures collected for any other type of petition, such as recall petitions, candidate nominating petitions, minor party petitions, or petitions for the formation of a special district.

(3) Section 1b bans the practice of paying circulators or others involved in an initiative or referendum effort if the basis for payment is the number of signatures obtained. This means that payment cannot be made on a per signature basis. Employment relationships that do not base payment on the number of signatures collected are allowed. Allowable practices include: paying an hourly wage or salary, establishing either express or implied minimum signature requirements for circulators, terminating circulators who do not meet the productivity requirements, adjusting salaries prospectively relative to a circulator's productivity, and paying discretionary bonuses based on reliability, longevity and productivity, provided no payments are made on a per signature basis.

(4) If a circulator is carrying a petition subject to Section 1b and another petition not subject to Section 1b (for example, a state initiative petition and a local recall petition), the circulator may be paid by the signature only for signatures collected on the petition not subject to Section 1b. Any payment for collecting signatures on the petition subject to Section 1b must comply with Section 1b.

(5) The phrase "directly or indirectly" in Section 1b means that the chief petitioners who are responsible for the circulation and submission of the initiative or referendum petition cannot directly pay for signature gathering based on the number of signatures obtained, and cannot contract or delegate to another person or entity to obtain signatures and allow the third party to pay circulators on the basis of the number of signatures obtained. However, chief petitioners may contract with a person or entity to manage the signature gathering, and pay the person or entity for services, including the service of qualifying the petition for the ballot, so long as the individuals who actually circulate the petition are not paid based on the number of signatures obtained. The chief petitioners are responsible for insuring that agents of the chief petitioner (anyone who is delegated the task of obtaining signatures on the initiative or referendum petition) do not violate Section 1b.

(6) Violations of Section 1b will be processed under ORS 260.995 as civil penalties. Penalties may be assessed against chief petitioners or any other persons who either pay directly or indirectly pay circulators based on the number of signatures obtained. Liability may be imposed on chief petitioners as provided in ORS 260.561. Violations of Section 1b will be calculated by deeming each individual signature sheet that contains signatures that were collected in violation of Section 1b as a single occurrence with a minimum civil penalty of \$100. Violations of Section 1b shall not be combined under OAR 165-013-0020(1)(b)(E).

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 250.045 & 260.995
Hist.: ELECT 15-2003, f. & cert. ef. 10-15-03

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**Teacher Standards and Practices Commission
Chapter 584**

Adm. Order No.: TSPC 5-2003(Temp)
Filed with Sec. of State: 9-17-2003
Certified to be Effective: 9-17-03 thru 1-15-04
Notice Publication Date:

Rules Amended: 584-036-0062

Subject: Eliminates acceptance of the Fingerprint-Based Criminal History Verification Form From the Oregon Department of Education.

Rules Coordinator: Robyn MacKillop—(503) 373-1060

584-036-0062

Criminal Records Check Requirement

(1) For the first Oregon license as an educator, or for reinstatement of a license that has been expired for more than three years, the applicant must submit two fingerprint cards for checking Oregon and Federal Bureau of Investigation criminal history records as follows:

(a) Secure two original FBI fingerprint cards from TSPC, an Oregon school district or Education Service District, or an Oregon Approved Teacher Education Institution.

(b) Arrange to have fingerprints taken by any local or state police jurisdiction in the United States, or by authorized personnel at an Oregon school district or Education Service District, or an Oregon Approved Teacher Education Institution which provides this service.

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(c) Provide for the authorized fingerprinter at least one form of picture identification, such as a photo driver's license, Division of Motor Vehicles photo identification card, military identification card, student body card, etc.

(d) Submit to the authorized fingerprinter the 8-1/2" x 10" envelope furnished by TSPC and the form entitled "Instructions for Handling Fingerprint Cards."

(e) Submit to TSPC as a part of the complete application, the fingerprint cards and a personal check, money order, or cashiers check in the amount of \$42 to cover the actual cost of acquiring and processing the fingerprint information.

(2) A criminal history records check as specified in section (1) of this rule, is required for renewal of licensure if the applicant has not previously submitted to a records check with TSPC.

(3) An applicant may only be fingerprinted through the TSPC process. A fingerprint check for employment in an Oregon school district does not qualify as a TSPC verified fingerprint and criminal background check.

(4) The Commission may issue a temporary license valid until receipt of fingerprint reports from the Oregon State Police and the Federal Bureau of Investigation.

Stat. Auth.: ORS 181 & ORS 342

Stats. Implemented: ORS 181.525, ORS 342.120 - ORS 342.200, ORS 342.223, ORS 342.400 & ORS 342.985

Hist.: TS 6-1993, f. & cert. ef. 12-7-93; TS 2-1994, f. & cert. ef. 7-19-94; TS 2-1995(Temp), f. 8-16-95, cert. ef. 9-11-95; TS 4-1995, f. & cert. ef. 11-9-95; TSPC 5-2003(Temp), f. & cert. ef. 9-17-03 thru 1-15-03

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122-070-0060	9-24-03	Amend(T)	11-1-03	123-015-0010	3-26-03	Repeal	5-1-03
122-070-0065	9-24-03	Adopt(T)	11-1-03	123-015-0015	3-26-03	Repeal	5-1-03

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123-020-0001	8-30-03	Adopt(T)	10-1-03	123-065-1901	11-26-03	Adopt(T)	11-1-03
123-020-0005	3-4-03	Amend(T)	4-1-03	123-065-3000	3-21-03	Amend	5-1-03
123-020-0005	8-30-03	Amend(T)	10-1-03	123-065-3110	3-21-03	Amend	5-1-03
123-020-0010	3-4-03	Amend(T)	4-1-03	123-065-3130	3-21-03	Amend	5-1-03
123-020-0010	8-30-03	Amend(T)	10-1-03	123-065-3140	3-21-03	Amend	5-1-03
123-020-0015	3-4-03	Amend(T)	4-1-03	123-065-3170	3-21-03	Amend	5-1-03
123-020-0015	8-30-03	Amend(T)	10-1-03	123-065-3200	3-21-03	Amend	5-1-03
123-020-0020	3-4-03	Amend(T)	4-1-03	123-065-3230	3-21-03	Amend	5-1-03
123-020-0020	8-30-03	Amend(T)	10-1-03	123-065-3260	3-21-03	Repeal	5-1-03
123-020-0025	3-4-03	Amend(T)	4-1-03	123-065-3300	3-21-03	Amend	5-1-03
123-020-0025	8-30-03	Amend(T)	10-1-03	123-065-3330	3-21-03	Amend	5-1-03
123-020-0030	3-4-03	Amend(T)	4-1-03	123-065-3330	3-21-03	Amend	5-1-03
123-020-0030	8-30-03	Amend(T)	10-1-03	123-065-3360	3-21-03	Amend	5-1-03
123-020-0035	3-4-03	Amend(T)	4-1-03	123-065-3400	3-21-03	Amend	5-1-03
123-020-0035	8-30-03	Amend(T)	10-1-03	123-065-3430	3-21-03	Amend	5-1-03
123-020-0040	3-4-03	Amend(T)	4-1-03	123-065-3460	3-21-03	Amend	5-1-03
123-020-0040	8-30-03	Amend(T)	10-1-03	123-065-3480	3-21-03	Amend	5-1-03
123-020-0050	3-4-03	Suspend	4-1-03	123-065-3500	3-21-03	Amend	5-1-03
123-020-0050	8-30-03	Suspend	10-1-03	123-065-3530	3-21-03	Amend	5-1-03
123-024-0011	3-26-03	Amend	5-1-03	123-065-3560	3-21-03	Amend	5-1-03
123-024-0021	3-26-03	Amend	5-1-03	123-065-3600	3-21-03	Amend	5-1-03
123-040-0000	3-26-03	Repeal	5-1-03	123-065-3800	3-21-03	Adopt	5-1-03
123-040-0005	3-26-03	Repeal	5-1-03	123-065-3830	3-21-03	Adopt	5-1-03
123-040-0010	3-26-03	Repeal	5-1-03	123-065-3850	3-21-03	Adopt	5-1-03
123-040-0015	3-26-03	Repeal	5-1-03	123-065-4010	3-21-03	Amend	5-1-03
123-040-0020	3-26-03	Repeal	5-1-03	123-065-8001	11-26-03	Adopt(T)	11-1-03
123-040-0025	3-26-03	Repeal	5-1-03	123-065-8101	11-26-03	Adopt(T)	11-1-03
123-040-0030	3-26-03	Repeal	5-1-03	123-065-8201	11-26-03	Adopt(T)	11-1-03
123-040-0035	3-26-03	Repeal	5-1-03	123-065-8301	11-26-03	Adopt(T)	11-1-03
123-043-0035	2-24-03	Amend(T)	4-1-03	123-065-8401	11-26-03	Adopt(T)	11-1-03
123-043-0035	9-24-03	Amend(T)	11-1-03	123-068-0001	3-26-03	Repeal	5-1-03
123-043-0045	2-24-03	Amend(T)	4-1-03	123-068-0010	3-26-03	Repeal	5-1-03
123-043-0045	9-24-03	Amend(T)	11-1-03	123-068-0011	6-13-03	Adopt(T)	7-1-03
123-043-0055	2-24-03	Amend(T)	4-1-03	123-068-0020	3-26-03	Repeal	5-1-03
123-043-0055	9-24-03	Amend(T)	11-1-03	123-068-0030	3-26-03	Repeal	5-1-03
123-043-0075	2-24-03	Amend(T)	4-1-03	123-068-0101	6-13-03	Adopt(T)	7-1-03
123-043-0075	9-24-03	Amend(T)	11-1-03	123-068-0201	6-13-03	Adopt(T)	7-1-03
123-049-0006	5-2-03	Adopt(T)	6-1-03	123-068-0301	6-13-03	Adopt(T)	7-1-03
123-049-0061	5-2-03	Adopt(T)	6-1-03	123-072-0001	3-26-03	Repeal	5-1-03
123-050-0000	3-26-03	Repeal	5-1-03	123-072-0005	3-26-03	Repeal	5-1-03
123-050-0010	3-26-03	Repeal	5-1-03	123-072-0010	3-26-03	Repeal	5-1-03
123-050-0020	3-26-03	Repeal	5-1-03	123-073-0000	3-26-03	Repeal	5-1-03
123-050-0030	3-26-03	Repeal	5-1-03	123-073-0010	3-26-03	Repeal	5-1-03
123-050-0040	3-26-03	Repeal	5-1-03	123-073-0020	3-26-03	Repeal	5-1-03
123-050-0050	3-26-03	Repeal	5-1-03	123-073-0030	3-26-03	Repeal	5-1-03
123-050-0060	3-26-03	Repeal	5-1-03	123-075-0000	3-26-03	Amend	5-1-03
123-050-0070	3-26-03	Repeal	5-1-03	123-075-0005	3-26-03	Repeal	5-1-03
123-050-0080	3-26-03	Repeal	5-1-03	123-075-0010	3-26-03	Repeal	5-1-03
123-050-0090	3-26-03	Repeal	5-1-03	123-075-0015	3-26-03	Repeal	5-1-03
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123-064-0030	3-26-03	Repeal	5-1-03	123-075-0035	3-26-03	Repeal	5-1-03
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123-085-0030	3-26-03	Repeal	5-1-03	125-045-0130	12-27-02	Amend	2-1-03
123-085-0040	3-26-03	Repeal	5-1-03	125-045-0140	12-27-02	Amend	2-1-03
123-085-0050	3-26-03	Repeal	5-1-03	125-045-0150	12-27-02	Amend	2-1-03
123-085-0060	3-26-03	Repeal	5-1-03	125-045-0160	12-27-02	Amend	2-1-03
123-085-0070	3-26-03	Repeal	5-1-03	125-045-0160	4-7-03	Amend	5-1-03
123-085-0080	3-26-03	Repeal	5-1-03	125-055-0005	9-8-03	Adopt	10-1-03
123-086-0000	3-26-03	Repeal	5-1-03	125-055-0010	9-8-03	Adopt	10-1-03
123-086-0010	3-26-03	Repeal	5-1-03	125-055-0015	9-8-03	Adopt	10-1-03
123-086-0020	3-26-03	Repeal	5-1-03	125-055-0020	9-8-03	Adopt	10-1-03
123-086-0030	3-26-03	Repeal	5-1-03	125-055-0025	9-8-03	Adopt	10-1-03
123-086-0040	3-26-03	Repeal	5-1-03	125-055-0030	9-8-03	Adopt	10-1-03
123-086-0050	3-26-03	Repeal	5-1-03	125-055-0035	9-8-03	Adopt	10-1-03
123-086-0060	3-26-03	Repeal	5-1-03	125-055-0040	9-8-03	Adopt	10-1-03
123-086-0070	3-26-03	Repeal	5-1-03	125-055-0045	9-8-03	Adopt	10-1-03
123-086-0080	3-26-03	Repeal	5-1-03	125-055-0100	12-31-02	Adopt(T)	2-1-03
123-087-0000	3-26-03	Amend	5-1-03	125-055-0100	6-27-03	Adopt	8-1-03
123-087-0010	3-26-03	Amend	5-1-03	125-055-0105	12-31-02	Adopt(T)	2-1-03
123-087-0020	3-26-03	Amend	5-1-03	125-055-0105	6-27-03	Adopt	8-1-03
123-087-0030	3-26-03	Amend	5-1-03	125-055-0110	12-31-02	Adopt(T)	2-1-03
123-087-0040	3-26-03	Amend	5-1-03	125-055-0110	6-27-03	Adopt	8-1-03
123-096-0000	3-26-03	Repeal	5-1-03	125-055-0115	12-31-02	Adopt(T)	2-1-03
123-096-0010	3-26-03	Repeal	5-1-03	125-055-0115	6-27-03	Adopt	8-1-03
123-096-0020	3-26-03	Repeal	5-1-03	125-055-0120	12-31-02	Adopt(T)	2-1-03
123-096-0030	3-26-03	Repeal	5-1-03	125-055-0120	6-27-03	Adopt	8-1-03
123-096-0040	3-26-03	Repeal	5-1-03	125-055-0125	12-31-02	Adopt(T)	2-1-03
123-096-0050	3-26-03	Repeal	5-1-03	125-055-0125	6-27-03	Adopt	8-1-03
123-096-0060	3-26-03	Repeal	5-1-03	125-055-0130	12-31-02	Adopt(T)	2-1-03
123-096-0070	3-26-03	Repeal	5-1-03	125-055-0130	6-27-03	Adopt	8-1-03
123-135-0000	12-10-02	Amend	1-1-03	125-500-0000	12-27-02	Amend	2-1-03
123-135-0010	12-10-02	Amend	1-1-03	125-500-0005	12-27-02	Amend	2-1-03
123-135-0020	12-10-02	Amend	1-1-03	125-500-0010	12-27-02	Amend	2-1-03
123-135-0030	12-10-02	Amend	1-1-03	137-001-0070	10-10-03	Amend(T)	11-1-03
123-135-0040	12-10-02	Amend	1-1-03	137-003-0036	4-1-03	Adopt	5-1-03
123-135-0050	12-10-02	Amend	1-1-03	137-003-0515	7-21-03	Amend	8-1-03
123-135-0060	12-10-02	Amend	1-1-03	137-003-0520	7-21-03	Amend	8-1-03
123-135-0070	12-10-02	Amend	1-1-03	137-003-0528	7-21-03	Amend	8-1-03
123-135-0080	12-10-02	Amend	1-1-03	137-003-0530	7-21-03	Amend	8-1-03
123-135-0087	12-10-02	Adopt	1-1-03	137-003-0535	7-21-03	Amend	8-1-03
123-135-0090	12-10-02	Amend	1-1-03	137-003-0570	7-21-03	Amend	8-1-03
123-135-0100	12-10-02	Amend	1-1-03	137-003-0572	7-21-03	Adopt	8-1-03
123-135-0110	12-10-02	Amend	1-1-03	137-003-0573	4-1-03	Adopt	5-1-03
123-155-0000	12-2-02	Adopt	1-1-03	137-003-0575	7-21-03	Amend	8-1-03
123-155-0100	12-2-02	Adopt	1-1-03	137-003-0580	7-21-03	Amend	8-1-03
123-155-0150	12-2-02	Adopt	1-1-03	137-003-0595	7-21-03	Amend	8-1-03
123-155-0200	12-2-02	Adopt	1-1-03	137-003-0600	7-21-03	Amend	8-1-03
123-155-0250	12-2-02	Adopt	1-1-03	137-003-0650	7-21-03	Amend	8-1-03
123-155-0270	12-2-02	Adopt	1-1-03	137-003-0655	7-21-03	Amend	8-1-03
123-155-0300	12-2-02	Adopt	1-1-03	137-008-0000	3-1-03	Amend	4-1-03
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125-045-0100	12-27-02	Amend	2-1-03	137-009-0010	12-12-02	Amend(T)	1-1-03
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137-009-0020	12-12-02	Suspend	1-1-03	137-050-0475	5-12-03	Amend	5-1-03
137-009-0020	6-11-03	Repeal	7-1-03	137-050-0475	10-1-03	Amend	11-1-03
137-009-0025	12-12-02	Suspend	1-1-03	137-050-0490	5-12-03	Amend	5-1-03
137-009-0025	6-11-03	Repeal	7-1-03	137-050-0605	10-1-03	Am. & Ren.	11-1-03
137-009-0030	12-12-02	Suspend	1-1-03	137-055-0595	10-1-03	Repeal	11-1-03
137-009-0030	6-11-03	Repeal	7-1-03	137-055-1020(T)	10-1-03	Repeal	11-1-03
137-009-0035	12-12-02	Suspend	1-1-03	137-055-1040(T)	10-1-03	Repeal	11-1-03
137-009-0035	6-11-03	Repeal	7-1-03	137-055-1060(T)	10-1-03	Repeal	11-1-03
137-009-0040	12-12-02	Suspend	1-1-03	137-055-1070(T)	10-1-03	Repeal	11-1-03
137-009-0040	6-11-03	Repeal	7-1-03	137-055-1080(T)	10-1-03	Repeal	11-1-03
137-009-0045	12-12-02	Amend(T)	1-1-03	137-055-1100(T)	10-1-03	Repeal	11-1-03
137-009-0045	6-11-03	Amend	7-1-03	137-055-1120(T)	10-1-03	Repeal	11-1-03
137-009-0055	12-12-02	Suspend	1-1-03	137-055-1140(T)	10-1-03	Repeal	11-1-03
137-009-0055	6-11-03	Repeal	7-1-03	137-055-1160(T)	10-1-03	Repeal	11-1-03
137-009-0060	12-12-02	Adopt(T)	1-1-03	137-055-1180(T)	10-1-03	Repeal	11-1-03
137-009-0060	6-11-03	Adopt	7-1-03	137-055-1200(T)	10-1-03	Repeal	11-1-03
137-009-0065	12-12-02	Adopt(T)	1-1-03	137-055-1320(T)	10-1-03	Repeal	11-1-03
137-009-0065	6-11-03	Adopt	7-1-03	137-055-1340(T)	10-1-03	Repeal	11-1-03
137-009-0100	12-12-02	Adopt(T)	1-1-03	137-055-1360(T)	10-1-03	Repeal	11-1-03
137-009-0100	6-11-03	Adopt	7-1-03	137-055-1500(T)	10-1-03	Repeal	11-1-03
137-009-0120	12-12-02	Adopt(T)	1-1-03	137-055-1600(T)	10-1-03	Repeal	11-1-03
137-009-0120	6-11-03	Adopt	7-1-03	137-055-2020(T)	10-1-03	Repeal	11-1-03
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137-050-0300	10-1-03	Am. & Ren.	11-1-03	137-055-2060(T)	10-1-03	Repeal	11-1-03
137-050-0320	5-12-03	Amend	5-1-03	137-055-2080(T)	10-1-03	Repeal	11-1-03
137-050-0320	10-1-03	Amend	11-1-03	137-055-2120(T)	10-1-03	Repeal	11-1-03
137-050-0330	5-12-03	Amend	5-1-03	137-055-2140(T)	10-1-03	Repeal	11-1-03
137-050-0330	10-1-03	Amend	11-1-03	137-055-2160(T)	10-1-03	Repeal	11-1-03
137-050-0333	5-12-03	Adopt	5-1-03	137-055-2180(T)	10-1-03	Repeal	11-1-03
137-050-0335	5-12-03	Amend	5-1-03	137-055-2320(T)	10-1-03	Repeal	11-1-03
137-050-0335	6-5-03	Amend(T)	7-1-03	137-055-2340(T)	10-1-03	Repeal	11-1-03
137-050-0335	10-1-03	Amend	11-1-03	137-055-2360(T)	10-1-03	Repeal	11-1-03
137-050-0335(T)	10-1-03	Repeal	11-1-03	137-055-2380(T)	10-1-03	Repeal	11-1-03
137-050-0340	5-12-03	Amend	5-1-03	137-055-3020(T)	10-1-03	Repeal	11-1-03
137-050-0340	10-1-03	Amend	11-1-03	137-055-3040(T)	10-1-03	Repeal	11-1-03
137-050-0350	5-12-03	Amend	5-1-03	137-055-3060(T)	10-1-03	Repeal	11-1-03
137-050-0350	10-1-03	Amend	11-1-03	137-055-3080(T)	10-1-03	Repeal	11-1-03
137-050-0360	5-12-03	Amend	5-1-03	137-055-3100(T)	10-1-03	Repeal	11-1-03
137-050-0360	10-1-03	Amend	11-1-03	137-055-3120(T)	10-1-03	Repeal	11-1-03
137-050-0365	5-12-03	Repeal	5-1-03	137-055-3140(T)	10-1-03	Repeal	11-1-03
137-050-0390	5-12-03	Amend	5-1-03	137-055-3220(T)	10-1-03	Repeal	11-1-03
137-050-0400	5-12-03	Amend	5-1-03	137-055-3240(T)	10-1-03	Repeal	11-1-03
137-050-0405	5-12-03	Amend	5-1-03	137-055-3260(T)	10-1-03	Repeal	11-1-03
137-050-0405	10-1-03	Amend	11-1-03	137-055-3280(T)	10-1-03	Repeal	11-1-03
137-050-0410	5-12-03	Amend	5-1-03	137-055-3290(T)	10-1-03	Repeal	11-1-03
137-050-0410	10-1-03	Amend	11-1-03	137-055-3300(T)	10-1-03	Repeal	11-1-03
137-050-0410	10-6-03	Amend	11-1-03	137-055-3340(T)	10-1-03	Repeal	11-1-03
137-050-0420	5-12-03	Amend	5-1-03	137-055-3360(T)	10-1-03	Repeal	11-1-03
137-050-0430	5-12-03	Amend	5-1-03	137-055-3400(T)	10-1-03	Repeal	11-1-03
137-050-0450	5-12-03	Amend	5-1-03	137-055-3410	10-1-03	Adopt	11-1-03
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137-050-0455	5-12-03	Adopt	5-1-03	137-055-3440(T)	10-1-03	Repeal	11-1-03
137-050-0455	10-1-03	Amend	11-1-03	137-055-3460(T)	10-1-03	Repeal	11-1-03
137-050-0460	5-12-03	Repeal	5-1-03	137-055-3480(T)	10-1-03	Repeal	11-1-03
137-050-0465	5-12-03	Adopt	5-1-03	137-055-3490(T)	10-1-03	Repeal	11-1-03

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137-055-3500(T)	10-1-03	Repeal	11-1-03	137-055-7080(T)	10-1-03	Repeal	11-1-03
137-055-3620(T)	10-1-03	Repeal	11-1-03	137-055-7100(T)	10-1-03	Repeal	11-1-03
137-055-3640(T)	10-1-03	Repeal	11-1-03	137-055-7120(T)	10-1-03	Repeal	11-1-03
137-055-4040(T)	10-1-03	Repeal	11-1-03	137-055-7140(T)	10-1-03	Repeal	11-1-03
137-055-4060(T)	10-1-03	Repeal	11-1-03	137-055-7160(T)	10-1-03	Repeal	11-1-03
137-055-4080(T)	10-1-03	Repeal	11-1-03	137-055-7180(T)	10-1-03	Repeal	11-1-03
137-055-4100(T)	10-1-03	Repeal	11-1-03	137-083-0000	3-1-03	Adopt	4-1-03
137-055-4120(T)	10-1-03	Repeal	11-1-03	137-083-0010	3-1-03	Adopt	4-1-03
137-055-4130(T)	10-1-03	Repeal	11-1-03	137-083-0020	3-1-03	Adopt	4-1-03
137-055-4140(T)	10-1-03	Repeal	11-1-03	137-083-0030	3-1-03	Adopt	4-1-03
137-055-4160(T)	10-1-03	Repeal	11-1-03	137-083-0040	3-1-03	Adopt	4-1-03
137-055-4180(T)	10-1-03	Repeal	11-1-03	137-083-0050	3-1-03	Adopt	4-1-03
137-055-4200(T)	10-1-03	Repeal	11-1-03	141-030-0010	1-1-03	Amend	2-1-03
137-055-4220(T)	10-1-03	Repeal	11-1-03	141-030-0015	1-1-03	Amend	2-1-03
137-055-4240(T)	10-1-03	Repeal	11-1-03	141-030-0025	1-1-03	Amend	2-1-03
137-055-4260(T)	10-1-03	Repeal	11-1-03	141-030-0034	1-1-03	Amend	2-1-03
137-055-4280(T)	10-1-03	Repeal	11-1-03	141-030-0035	1-1-03	Amend	2-1-03
137-055-4300(T)	10-1-03	Repeal	11-1-03	141-030-0036	1-1-03	Amend	2-1-03
137-055-4320(T)	10-1-03	Repeal	11-1-03	141-030-0037	1-1-03	Amend	2-1-03
137-055-4340(T)	10-1-03	Repeal	11-1-03	141-030-0038	1-1-03	Amend	2-1-03
137-055-4360(T)	10-1-03	Repeal	11-1-03	141-030-0039	1-1-03	Amend	2-1-03
137-055-4420(T)	10-1-03	Repeal	11-1-03	141-030-0040	1-1-03	Adopt	2-1-03
137-055-4440(T)	10-1-03	Repeal	11-1-03	141-035-0005	1-1-03	Amend	2-1-03
137-055-4460(T)	10-1-03	Repeal	11-1-03	141-035-0010	1-1-03	Amend	2-1-03
137-055-4500(T)	10-1-03	Repeal	11-1-03	141-035-0013	1-1-03	Adopt	2-1-03
137-055-4520(T)	10-1-03	Repeal	11-1-03	141-035-0015	1-1-03	Amend	2-1-03
137-055-4540(T)	10-1-03	Repeal	11-1-03	141-035-0020	1-1-03	Amend	2-1-03
137-055-4560(T)	10-1-03	Repeal	11-1-03	141-035-0025	1-1-03	Amend	2-1-03
137-055-4620(T)	10-1-03	Repeal	11-1-03	141-035-0030	1-1-03	Amend	2-1-03
137-055-4640(T)	10-1-03	Repeal	11-1-03	141-035-0035	1-1-03	Amend	2-1-03
137-055-5020(T)	10-1-03	Repeal	11-1-03	141-035-0040	1-1-03	Amend	2-1-03
137-055-5040(T)	10-1-03	Repeal	11-1-03	141-035-0045	1-1-03	Amend	2-1-03
137-055-5060(T)	10-1-03	Repeal	11-1-03	141-035-0046	1-1-03	Repeal	2-1-03
137-055-5080(T)	10-1-03	Repeal	11-1-03	141-035-0047	1-1-03	Amend	2-1-03
137-055-5110(T)	10-1-03	Repeal	11-1-03	141-035-0048	1-1-03	Adopt	2-1-03
137-055-5120(T)	10-1-03	Repeal	11-1-03	141-035-0050	1-1-03	Amend	2-1-03
137-055-5125(T)	10-1-03	Repeal	11-1-03	141-035-0055	1-1-03	Amend	2-1-03
137-055-5220(T)	10-1-03	Repeal	11-1-03	141-035-0060	1-1-03	Amend	2-1-03
137-055-5240(T)	10-1-03	Repeal	11-1-03	141-035-0065	1-1-03	Amend	2-1-03
137-055-5400(T)	10-1-03	Repeal	11-1-03	141-035-0070	1-1-03	Amend	2-1-03
137-055-5420(T)	10-1-03	Repeal	11-1-03	141-040-0005	1-1-03	Amend	2-1-03
137-055-5520(T)	10-1-03	Repeal	11-1-03	141-040-0010	1-1-03	Amend	2-1-03
137-055-6020(T)	10-1-03	Repeal	11-1-03	141-040-0020	1-1-03	Amend	2-1-03
137-055-6025(T)	10-1-03	Repeal	11-1-03	141-040-0030	1-1-03	Amend	2-1-03
137-055-6040(T)	10-1-03	Repeal	11-1-03	141-040-0035	1-1-03	Amend	2-1-03
137-055-6100(T)	10-1-03	Repeal	11-1-03	141-040-0040	1-1-03	Amend	2-1-03
137-055-6110(T)	10-1-03	Repeal	11-1-03	141-040-0200	1-1-03	Amend	2-1-03
137-055-6120(T)	10-1-03	Repeal	11-1-03	141-040-0210	1-1-03	Repeal	2-1-03
137-055-6200	10-1-03	Adopt	11-1-03	141-040-0211	1-1-03	Amend	2-1-03
137-055-6220(T)	10-1-03	Repeal	11-1-03	141-040-0212	1-1-03	Amend	2-1-03
137-055-6240(T)	10-1-03	Repeal	11-1-03	141-040-0214	1-1-03	Amend	2-1-03
137-055-6260(T)	10-1-03	Repeal	11-1-03	141-040-0220	1-1-03	Amend	2-1-03
137-055-6280(T)	10-1-03	Repeal	11-1-03	141-045-0005	1-1-03	Amend	2-1-03
137-055-7020(T)	10-1-03	Repeal	11-1-03	141-045-0010	1-1-03	Amend	2-1-03
137-055-7040(T)	10-1-03	Repeal	11-1-03	141-045-0015	1-1-03	Adopt	2-1-03
137-055-7060(T)	10-1-03	Repeal	11-1-03	141-045-0020	1-1-03	Repeal	2-1-03

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141-045-0021	1-1-03	Adopt	2-1-03	141-085-0065	1-15-03	Repeal	1-1-03
141-045-0024	1-1-03	Repeal	2-1-03	141-085-0066	1-15-03	Adopt	1-1-03
141-045-0031	1-1-03	Amend	2-1-03	141-085-0070	1-15-03	Amend	1-1-03
141-045-0041	1-1-03	Amend	2-1-03	141-085-0070	7-10-03	Amend	8-1-03
141-045-0061	1-1-03	Amend	2-1-03	141-085-0075	1-15-03	Amend	1-1-03
141-045-0100	1-1-03	Amend	2-1-03	141-085-0075	7-10-03	Amend	8-1-03
141-045-0105	1-1-03	Amend	2-1-03	141-085-0079	1-15-03	Adopt	1-1-03
141-045-0115	1-1-03	Amend	2-1-03	141-085-0080	1-15-03	Amend	1-1-03
141-045-0120	1-1-03	Amend	2-1-03	141-085-0085	1-15-03	Amend	1-1-03
141-045-0121	1-1-03	Adopt	2-1-03	141-085-0085	7-10-03	Amend	8-1-03
141-045-0122	1-1-03	Adopt	2-1-03	141-085-0090	1-15-03	Amend	1-1-03
141-045-0123	1-1-03	Adopt	2-1-03	141-085-0090	7-10-03	Amend	8-1-03
141-045-0124	1-1-03	Adopt	2-1-03	141-085-0095	1-15-03	Adopt	1-1-03
141-045-0125	1-1-03	Amend	2-1-03	141-085-0096	1-15-03	Adopt	1-1-03
141-045-0126	1-1-03	Adopt	2-1-03	141-085-0101	1-15-03	Repeal	1-1-03
141-045-0130	1-1-03	Amend	2-1-03	141-085-0110	1-15-03	Repeal	1-1-03
141-045-0150	1-1-03	Amend	2-1-03	141-085-0115	1-15-03	Amend	1-1-03
141-045-0155	1-1-03	Amend	2-1-03	141-085-0115	7-10-03	Amend	8-1-03
141-045-0160	1-1-03	Amend	2-1-03	141-085-0120	1-15-03	Repeal	1-1-03
141-045-0170	1-1-03	Amend	2-1-03	141-085-0121	1-15-03	Adopt	1-1-03
141-045-0180	1-1-03	Amend	2-1-03	141-085-0121	7-10-03	Amend	8-1-03
141-045-0185	1-1-03	Adopt	2-1-03	141-085-0125	1-15-03	Repeal	1-1-03
141-085-0005	1-15-03	Amend	1-1-03	141-085-0126	1-15-03	Adopt	1-1-03
141-085-0006	1-15-03	Adopt	1-1-03	141-085-0126	7-10-03	Amend	8-1-03
141-085-0006	7-10-03	Amend	8-1-03	141-085-0130	1-15-03	Repeal	1-1-03
141-085-0010	1-15-03	Amend	1-1-03	141-085-0131	1-15-03	Adopt	1-1-03
141-085-0010	7-10-03	Amend	8-1-03	141-085-0135	1-15-03	Repeal	1-1-03
141-085-0015	1-15-03	Amend	1-1-03	141-085-0136	1-15-03	Adopt	1-1-03
141-085-0015	7-10-03	Amend	8-1-03	141-085-0136	7-10-03	Amend	8-1-03
141-085-0018	1-15-03	Adopt	1-1-03	141-085-0140	1-15-03	Repeal	1-1-03
141-085-0020	1-15-03	Amend	1-1-03	141-085-0141	1-15-03	Adopt	1-1-03
141-085-0020	7-10-03	Amend	8-1-03	141-085-0141	7-10-03	Amend	8-1-03
141-085-0022	1-15-03	Adopt	1-1-03	141-085-0145	1-15-03	Repeal	1-1-03
141-085-0022	7-10-03	Amend	8-1-03	141-085-0146	1-15-03	Adopt	1-1-03
141-085-0024	1-15-03	Adopt	1-1-03	141-085-0150	1-15-03	Repeal	1-1-03
141-085-0025	1-15-03	Amend	1-1-03	141-085-0151	1-15-03	Adopt	1-1-03
141-085-0025	7-10-03	Amend	8-1-03	141-085-0155	1-15-03	Repeal	1-1-03
141-085-0027	1-15-03	Adopt	1-1-03	141-085-0156	1-15-03	Adopt	1-1-03
141-085-0028	1-15-03	Adopt	1-1-03	141-085-0160	1-15-03	Repeal	1-1-03
141-085-0028	7-10-03	Amend	8-1-03	141-085-0161	1-15-03	Adopt	1-1-03
141-085-0029	1-15-03	Adopt	1-1-03	141-085-0165	1-15-03	Repeal	1-1-03
141-085-0029	7-10-03	Amend	8-1-03	141-085-0166	1-15-03	Adopt	1-1-03
141-085-0030	1-15-03	Repeal	1-1-03	141-085-0166	7-10-03	Amend	8-1-03
141-085-0031	1-15-03	Adopt	1-1-03	141-085-0170	1-15-03	Repeal	1-1-03
141-085-0031	7-10-03	Amend	8-1-03	141-085-0171	1-15-03	Adopt	1-1-03
141-085-0032	1-15-03	Repeal	1-1-03	141-085-0175	1-15-03	Repeal	1-1-03
141-085-0034	1-15-03	Adopt	1-1-03	141-085-0176	1-15-03	Adopt	1-1-03
141-085-0035	1-15-03	Repeal	1-1-03	141-085-0176	7-10-03	Amend	8-1-03
141-085-0036	1-15-03	Adopt	1-1-03	141-085-0180	1-15-03	Repeal	1-1-03
141-085-0036	7-10-03	Amend	8-1-03	141-085-0240	1-15-03	Amend	1-1-03
141-085-0040	1-15-03	Repeal	1-1-03	141-085-0242	1-15-03	Repeal	1-1-03
141-085-0050	1-15-03	Repeal	1-1-03	141-085-0244	1-15-03	Amend	1-1-03
141-085-0055	1-15-03	Repeal	1-1-03	141-085-0244	7-10-03	Amend	8-1-03
141-085-0060	1-15-03	Repeal	1-1-03	141-085-0246	1-15-03	Amend	1-1-03
141-085-0064	1-15-03	Adopt	1-1-03	141-085-0248	1-15-03	Amend	1-1-03
141-085-0064	7-10-03	Amend	8-1-03	141-085-0250	1-15-03	Amend	1-1-03

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141-085-0254	1-15-03	Amend	1-1-03	141-089-0105	1-15-03	Adopt	1-1-03
141-085-0256	1-15-03	Amend	1-1-03	141-089-0105	7-10-03	Amend	8-1-03
141-085-0257	1-15-03	Adopt	1-1-03	141-089-0110	1-15-03	Adopt	1-1-03
141-085-0258	1-15-03	Repeal	1-1-03	141-089-0110	7-10-03	Amend	8-1-03
141-085-0260	1-15-03	Repeal	1-1-03	141-089-0115	1-15-03	Adopt	1-1-03
141-085-0262	1-15-03	Amend	1-1-03	141-089-0115	7-10-03	Amend	8-1-03
141-085-0263	1-15-03	Adopt	1-1-03	141-089-0120	1-15-03	Adopt	1-1-03
141-085-0264	1-15-03	Amend	1-1-03	141-089-0125	1-15-03	Adopt	1-1-03
141-085-0266	1-15-03	Amend	1-1-03	141-089-0130	1-15-03	Adopt	1-1-03
141-085-0300	1-15-03	Repeal	1-1-03	141-089-0130	7-10-03	Amend	8-1-03
141-085-0306	1-15-03	Repeal	1-1-03	141-089-0135	1-15-03	Adopt	1-1-03
141-085-0310	1-15-03	Repeal	1-1-03	141-089-0140	1-15-03	Adopt	1-1-03
141-085-0315	1-15-03	Repeal	1-1-03	141-089-0145	1-15-03	Adopt	1-1-03
141-085-0320	1-15-03	Repeal	1-1-03	141-089-0150	1-15-03	Adopt	1-1-03
141-085-0325	1-15-03	Repeal	1-1-03	141-089-0150	7-10-03	Amend	8-1-03
141-085-0330	1-15-03	Repeal	1-1-03	141-089-0155	1-15-03	Adopt	1-1-03
141-085-0335	1-15-03	Repeal	1-1-03	141-089-0160	1-15-03	Adopt	1-1-03
141-085-0340	1-15-03	Repeal	1-1-03	141-089-0165	1-15-03	Adopt	1-1-03
141-085-0345	1-15-03	Repeal	1-1-03	141-089-0165	7-10-03	Amend	8-1-03
141-085-0350	1-15-03	Repeal	1-1-03	141-089-0170	1-15-03	Adopt	1-1-03
141-085-0355	1-15-03	Repeal	1-1-03	141-089-0175	1-15-03	Adopt	1-1-03
141-085-0360	1-15-03	Repeal	1-1-03	141-089-0175	7-10-03	Amend	8-1-03
141-085-0365	1-15-03	Repeal	1-1-03	141-089-0180	1-15-03	Adopt	1-1-03
141-085-0400	1-15-03	Amend	1-1-03	141-089-0185	1-15-03	Adopt	1-1-03
141-085-0400	7-10-03	Amend	8-1-03	141-089-0185	7-10-03	Amend	8-1-03
141-085-0406	1-15-03	Amend	1-1-03	141-089-0190	1-15-03	Adopt	1-1-03
141-085-0410	1-15-03	Amend	1-1-03	141-089-0195	1-15-03	Adopt	1-1-03
141-085-0415	1-15-03	Repeal	1-1-03	141-089-0200	1-15-03	Adopt	1-1-03
141-085-0421	1-15-03	Amend	1-1-03	141-089-0200	7-10-03	Amend	8-1-03
141-085-0425	1-15-03	Amend	1-1-03	141-089-0205	1-15-03	Adopt	1-1-03
141-085-0430	1-15-03	Amend	1-1-03	141-089-0205	7-10-03	Amend	8-1-03
141-085-0436	1-15-03	Amend	1-1-03	141-089-0210	1-15-03	Adopt	1-1-03
141-085-0440	1-15-03	Amend	1-1-03	141-089-0210	7-10-03	Amend	8-1-03
141-085-0445	1-15-03	Amend	1-1-03	141-089-0215	1-15-03	Adopt	1-1-03
141-085-0610	1-15-03	Amend	1-1-03	141-089-0215	7-10-03	Amend	8-1-03
141-085-0620	1-15-03	Amend	1-1-03	141-089-0220	1-15-03	Adopt	1-1-03
141-085-0630	1-15-03	Amend	1-1-03	141-089-0225	1-15-03	Adopt	1-1-03
141-085-0640	1-15-03	Amend	1-1-03	141-089-0225	7-10-03	Amend	8-1-03
141-085-0650	1-15-03	Amend	1-1-03	141-089-0230	1-15-03	Adopt	1-1-03
141-085-0660	1-15-03	Amend	1-1-03	141-089-0235	1-15-03	Adopt	1-1-03
141-089-0005	1-15-03	Repeal	1-1-03	141-089-0240	1-15-03	Adopt	1-1-03
141-089-0010	1-15-03	Repeal	1-1-03	141-089-0240	7-10-03	Amend	8-1-03
141-089-0015	1-15-03	Repeal	1-1-03	141-089-0245	1-15-03	Adopt	1-1-03
141-089-0020	1-15-03	Repeal	1-1-03	141-089-0250	1-15-03	Adopt	1-1-03
141-089-0030	1-15-03	Repeal	1-1-03	141-089-0255	1-15-03	Adopt	1-1-03
141-089-0040	1-15-03	Repeal	1-1-03	141-089-0260	1-15-03	Adopt	1-1-03
141-089-0050	1-15-03	Repeal	1-1-03	141-089-0265	1-15-03	Adopt	1-1-03
141-089-0060	1-15-03	Repeal	1-1-03	141-089-0270	1-15-03	Adopt	1-1-03
141-089-0065	1-15-03	Repeal	1-1-03	141-089-0275	1-15-03	Adopt	1-1-03
141-089-0070	1-15-03	Repeal	1-1-03	141-089-0275	7-10-03	Amend	8-1-03
141-089-0075	1-15-03	Repeal	1-1-03	141-089-0280	1-15-03	Adopt	1-1-03
141-089-0081	1-15-03	Repeal	1-1-03	141-089-0285	1-15-03	Adopt	1-1-03
141-089-0086	1-15-03	Repeal	1-1-03	141-089-0290	1-15-03	Adopt	1-1-03
141-089-0091	1-15-03	Repeal	1-1-03	141-089-0295	1-15-03	Adopt	1-1-03
141-089-0100	1-15-03	Adopt	1-1-03	141-089-0295	7-10-03	Amend	8-1-03

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141-089-0305	1-15-03	Adopt	1-1-03	150-307.230-(B)	12-31-02	Amend	2-1-03
141-089-0310	1-15-03	Adopt	1-1-03	150-307.240-(B)	12-31-02	Amend	2-1-03
141-089-0310	7-10-03	Amend	8-1-03	150-307.804	7-31-03	Adopt	9-1-03
141-089-0400	7-10-03	Adopt	8-1-03	150-308.156	7-31-03	Amend	9-1-03
141-089-0405	7-10-03	Adopt	8-1-03	150-308.290(4)(b)	12-31-02	Amend	2-1-03
141-089-0410	7-10-03	Adopt	8-1-03	150-308.290(7)-(B)	12-31-02	Amend	2-1-03
141-089-0415	7-10-03	Adopt	8-1-03	150-308.560	12-31-02	Adopt	2-1-03
141-089-0420	7-10-03	Adopt	8-1-03	150-308.704	12-31-02	Amend	2-1-03
141-089-0425	7-10-03	Adopt	8-1-03	150-308.705	7-31-03	Repeal	9-1-03
141-089-0430	7-10-03	Adopt	8-1-03	150-308.709	12-31-02	Amend	2-1-03
141-089-0500	7-10-03	Adopt	8-1-03	150-308.712	12-31-02	Amend	2-1-03
141-089-0505	7-10-03	Adopt	8-1-03	150-308.720	7-31-03	Repeal	9-1-03
141-089-0510	7-10-03	Adopt	8-1-03	150-309.022(1)	12-31-02	Amend	2-1-03
141-089-0515	7-10-03	Adopt	8-1-03	150-309.024-(B)	12-31-02	Repeal	2-1-03
141-089-0520	7-10-03	Adopt	8-1-03	150-309.100	12-31-02	Am. & Ren.	2-1-03
141-089-0525	7-10-03	Adopt	8-1-03	150-309.100(1)	12-31-02	Am. & Ren.	2-1-03
141-089-0530	7-10-03	Adopt	8-1-03	150-309.100(1)-(A)	12-31-02	Am. & Ren.	2-1-03
141-122-0010	1-1-03	Amend	2-1-03	150-309.100(2)-(C)	12-31-02	Am. & Ren.	2-1-03
141-122-0020	1-1-03	Amend	2-1-03	150-309.100-(A)	12-31-02	Am. & Ren.	2-1-03
141-122-0030	1-1-03	Amend	2-1-03	150-309.100(B)	7-31-03	Repeal	9-1-03
141-122-0040	1-1-03	Amend	2-1-03	150-310.110	12-31-02	Amend	2-1-03
141-122-0050	1-1-03	Amend	2-1-03	150-311-0668(1)(a)(B)	7-31-03	Amend	9-1-03
141-122-0060	1-1-03	Amend	2-1-03	150-311.668(1)	7-31-03	Repeal	9-1-03
141-122-0070	1-1-03	Amend	2-1-03	150-311.668(1)(a)(A)	7-31-03	Amend	9-1-03
141-122-0080	1-1-03	Amend	2-1-03	150-311.670	7-31-03	Repeal	9-1-03
141-122-0090	1-1-03	Amend	2-1-03	150-311.676	7-31-03	Amend	9-1-03
141-122-0100	1-1-03	Amend	2-1-03	150-311.676(A)	7-31-03	Repeal	9-1-03
141-122-0105	1-1-03	Adopt	2-1-03	150-311.684	7-31-03	Amend	9-1-03
141-122-0110	1-1-03	Amend	2-1-03	150-311.686(2)	7-31-03	Amend	9-1-03
141-122-0120	1-1-03	Amend	2-1-03	150-314-0430(1)(A)	7-31-03	Amend	9-1-03
150-18.902(5)	12-31-02	Adopt	2-1-03	150-314.260	12-31-02	Amend	2-1-03
150-23.185	12-31-02	Am. & Ren.	2-1-03	150-314.280(3)	12-31-02	Adopt	2-1-03
150-23.185-(A)	12-31-02	Am. & Ren.	2-1-03	150-314.280-(N)	12-31-02	Amend	2-1-03
150-29.375	12-31-02	Repeal	2-1-03	150-314.280(N)	7-31-03	Amend	9-1-03
150-305.145(2)	12-31-02	Amend	2-1-03	150-314.385(1)-(B)	12-31-02	Amend	2-1-03
150-305.220(1)	1-31-03	Amend	2-1-03	150-314.415(1)(e)(B)	7-31-03	Amend	9-1-03
150-305.220(2)	1-31-03	Amend	2-1-03	150-314.525(1)-(A)	12-31-02	Amend	2-1-03
150-305.220(3)	1-31-03	Amend	2-1-03	150-314.525(5)	7-31-03	Adopt	9-1-03
150-305.220(3)	7-31-03	Amend	9-1-03	150-314.610(4)-(A)	12-31-02	Repeal	2-1-03
150-305.222	12-31-02	Adopt	2-1-03	150-314.752	7-31-03	Adopt	9-1-03
150-305.285	7-31-03	Renumber	9-1-03	150-314.840	12-31-02	Amend	2-1-03
150-305.612	12-31-02	Adopt	2-1-03	150-314.840(T)	12-31-02	Repeal	2-1-03
150-305.612(T)	12-31-02	Repeal	2-1-03	150-315.164	12-31-02	Amend	2-1-03
150-306.115(C)	7-31-03	Amend	9-1-03	150-316.207(3)(a)	7-31-03	Amend	9-1-03
150-306.115(D)	7-31-03	Repeal	9-1-03	150-317-0267(B)	7-31-03	Amend	9-1-03
150-306.115(E)	7-31-03	Repeal	9-1-03	150-317.329	7-31-03	Amend	9-1-03
150-306.115(F)	7-31-03	Repeal	9-1-03	150-318.020(2)	7-31-03	Amend	9-1-03
150-306.115(G)	7-31-03	Repeal	9-1-03	150-321.207(1)	12-31-02	Adopt	2-1-03
150-306.115(H)	7-31-03	Repeal	9-1-03	150-323.140	12-31-02	Adopt	2-1-03
150-306.115(I)	7-31-03	Repeal	9-1-03	150-323.160(2)	12-31-02	Adopt	2-1-03
150-306.115(J)	12-31-02	Repeal	2-1-03	150-465.517(3)	12-20-02	Renumber	2-1-03
150-306.115(K)	7-31-03	Repeal	9-1-03	150-465.517(3)	12-31-02	Adopt	2-1-03
150-306.115(L)	7-31-03	Repeal	9-1-03	160-100-0610	4-1-03	Amend	4-1-03
150-306.265	12-31-02	Adopt	2-1-03	161-001-0010	5-1-03	Amend	6-1-03
150-307.175	12-31-02	Amend	2-1-03	161-002-0000	1-27-03	Amend	3-1-03

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161-006-0025	5-1-03	Amend	6-1-03	165-007-1070	7-18-03	Adopt(T)	9-1-03
161-006-0025	7-1-03	Amend(T)	8-1-03	165-007-1090	8-29-03	Adopt(T)	10-1-03
161-006-0175	5-1-03	Amend	6-1-03	165-014-0005	12-5-02	Amend(T)	1-1-03
161-010-0020	1-27-03	Amend	3-1-03	165-014-0005	4-25-03	Amend	6-1-03
161-010-0020	5-1-03	Amend	6-1-03	165-014-0260	10-15-03	Adopt	11-1-03
161-010-0025	5-1-03	Amend	6-1-03	165-020-0005	12-5-02	Amend(T)	1-1-03
161-010-0035	5-1-03	Amend	6-1-03	165-020-0005	4-25-03	Amend	6-1-03
161-010-0045	5-1-03	Amend	6-1-03	165-020-0008	9-3-03	Repeal	10-1-03
161-010-0055	5-1-03	Amend	6-1-03	165-020-0020	9-3-03	Amend	10-1-03
161-010-0080	5-1-03	Amend	6-1-03	165-020-0025	9-3-03	Amend	10-1-03
161-015-0000	5-1-03	Amend	6-1-03	165-020-0030	9-3-03	Amend	10-1-03
161-020-0015	1-27-03	Amend	3-1-03	165-020-0040	9-3-03	Repeal	10-1-03
161-020-0045	1-27-03	Amend	3-1-03	165-020-0045	9-3-03	Amend	10-1-03
161-020-0045	5-1-03	Amend	6-1-03	165-020-0050	9-3-03	Amend	10-1-03
161-020-0045	7-1-03	Amend(T)	8-1-03	165-020-0060	9-3-03	Amend	10-1-03
161-020-0055	1-27-03	Amend	3-1-03	165-020-0300	9-3-03	Repeal	10-1-03
161-020-0055	5-1-03	Amend	6-1-03	165-020-0310	9-3-03	Repeal	10-1-03
161-020-0055	7-1-03	Amend(T)	8-1-03	165-020-0320	9-3-03	Repeal	10-1-03
161-020-0080	1-27-03	Repeal	3-1-03	165-020-0330	9-3-03	Repeal	10-1-03
161-020-0110	5-1-03	Amend	6-1-03	165-020-0340	9-3-03	Repeal	10-1-03
161-020-0120	5-1-03	Amend	6-1-03	165-020-0350	9-3-03	Repeal	10-1-03
161-020-0140	7-1-03	Amend(T)	8-1-03	165-020-0360	9-3-03	Repeal	10-1-03
161-020-0150	1-27-03	Amend	3-1-03	165-020-0370	9-3-03	Repeal	10-1-03
161-020-0150	5-1-03	Amend	6-1-03	165-020-0380	9-3-03	Repeal	10-1-03
161-025-0060	1-27-03	Amend	3-1-03	165-020-0390	9-3-03	Repeal	10-1-03
161-050-0050	5-1-03	Amend	6-1-03	165-020-0400	9-3-03	Repeal	10-1-03
165-001-0000	9-3-03	Amend	10-1-03	165-020-0410	9-3-03	Repeal	10-1-03
165-001-0005	9-3-03	Amend	10-1-03	165-020-0420	9-3-03	Repeal	10-1-03
165-001-0015	9-3-03	Amend	10-1-03	165-020-2020	3-18-03	Adopt(T)	5-1-03
165-001-0020	9-3-03	Repeal	10-1-03	165-020-3030	3-18-03	Adopt(T)	5-1-03
165-001-0025	9-3-03	Amend	10-1-03	165-022-0020	2-27-03	Amend(T)	4-1-03
165-001-0030	9-3-03	Repeal	10-1-03	166-115-0010	2-14-03	Adopt	3-1-03
165-001-0035	9-3-03	Amend	10-1-03	166-475-0010	2-14-03	Amend	3-1-03
165-001-0040	9-3-03	Amend	10-1-03	166-475-0015	2-14-03	Amend	3-1-03
165-001-0045	9-3-03	Amend	10-1-03	166-475-0020	2-14-03	Amend	3-1-03
165-001-0050	9-3-03	Amend	10-1-03	166-475-0025	2-14-03	Amend	3-1-03
165-001-0055	9-3-03	Amend	10-1-03	166-475-0030	2-14-03	Amend	3-1-03
165-001-0060	9-3-03	Repeal	10-1-03	166-475-0035	2-14-03	Amend	3-1-03
165-005-0035	9-3-03	Repeal	10-1-03	166-475-0040	2-14-03	Amend	3-1-03
165-005-0040	9-3-03	Repeal	10-1-03	166-475-0045	2-14-03	Amend	3-1-03
165-005-0050	9-3-03	Amend	10-1-03	166-475-0050	2-14-03	Amend	3-1-03
165-005-0055	9-3-03	Amend	10-1-03	166-475-0055	2-14-03	Amend	3-1-03
165-005-0060	9-3-03	Amend	10-1-03	166-475-0060	2-14-03	Amend	3-1-03
165-005-0070	9-3-03	Amend	10-1-03	166-475-0065	2-14-03	Amend	3-1-03
165-005-0080	9-3-03	Amend	10-1-03	166-475-0070	2-14-03	Amend	3-1-03
165-005-0090	9-3-03	Repeal	10-1-03	166-475-0075	2-14-03	Amend	3-1-03
165-005-0130	9-3-03	Amend	10-1-03	166-475-0080	2-14-03	Amend	3-1-03
165-005-0140	9-3-03	Repeal	10-1-03	166-475-0085	2-14-03	Amend	3-1-03
165-007-0030	9-3-03	Amend	10-1-03	166-475-0090	2-14-03	Amend	3-1-03
165-007-0050	9-3-03	Repeal	10-1-03	166-475-0095	2-14-03	Amend	3-1-03
165-007-0060	9-3-03	Repeal	10-1-03	166-475-0100	2-14-03	Amend	3-1-03
165-007-0070	9-3-03	Repeal	10-1-03	166-475-0105	2-14-03	Amend	3-1-03
165-007-0080	9-3-03	Repeal	10-1-03	166-475-0110	2-14-03	Amend	3-1-03
165-007-0120	9-3-03	Repeal	10-1-03	177-005-0000	11-25-02	Repeal	1-1-03
165-007-0130	9-3-03	Amend	10-1-03	177-010-0000	11-25-02	Amend	1-1-03

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177-010-0005	11-25-02	Repeal	1-1-03	177-046-0040	11-25-02	Adopt	1-1-03
177-010-0007	11-25-02	Amend	1-1-03	177-046-0050	11-25-02	Adopt	1-1-03
177-010-0009	11-25-02	Amend	1-1-03	177-046-0060	11-25-02	Adopt	1-1-03
177-010-0020	11-25-02	Repeal	1-1-03	177-046-0070	11-25-02	Adopt	1-1-03
177-010-0025	11-25-02	Amend	1-1-03	177-046-0080	11-25-02	Adopt	1-1-03
177-010-0040	11-25-02	Repeal	1-1-03	177-046-0090	11-25-02	Adopt	1-1-03
177-010-0045	11-25-02	Amend	1-1-03	177-046-0100	11-25-02	Adopt	1-1-03
177-010-0050	11-25-02	Amend	1-1-03	177-046-0110	11-25-02	Adopt	1-1-03
177-010-0055	11-25-02	Repeal	1-1-03	177-046-0120	11-25-02	Adopt	1-1-03
177-010-0060	11-25-02	Repeal	1-1-03	177-046-0130	11-25-02	Adopt	1-1-03
177-010-0065	11-25-02	Repeal	1-1-03	177-046-0140	11-25-02	Adopt	1-1-03
177-010-0070	11-25-02	Repeal	1-1-03	177-046-0150	11-25-02	Adopt	1-1-03
177-010-0080	11-25-02	Amend	1-1-03	177-046-0160	11-25-02	Adopt	1-1-03
177-010-0085	11-25-02	Amend	1-1-03	177-046-0170	11-25-02	Adopt	1-1-03
177-010-0096	11-25-02	Repeal	1-1-03	177-050-0000	11-25-02	Repeal	1-1-03
177-010-0100	11-25-02	Amend	1-1-03	177-050-0002	11-25-02	Amend	1-1-03
177-010-0110	11-25-02	Amend	1-1-03	177-050-0010	11-25-02	Repeal	1-1-03
177-010-0120	11-25-02	Amend	1-1-03	177-050-0020	11-25-02	Amend	1-1-03
177-010-0300	11-25-02	Repeal	1-1-03	177-050-0021	11-25-02	Repeal	1-1-03
177-040-0000	11-25-02	Amend	1-1-03	177-050-0023	11-25-02	Repeal	1-1-03
177-040-0001	11-25-02	Amend	1-1-03	177-050-0025	11-25-02	Amend	1-1-03
177-040-0003	11-25-02	Amend	1-1-03	177-050-0027	11-25-02	Amend	1-1-03
177-040-0005	11-25-02	Amend	1-1-03	177-050-0037	11-25-02	Amend	1-1-03
177-040-0010	11-25-02	Amend	1-1-03	177-050-0045	11-25-02	Repeal	1-1-03
177-040-0012	11-25-02	Repeal	1-1-03	177-050-0051	11-25-02	Repeal	1-1-03
177-040-0025	11-25-02	Amend	1-1-03	177-050-0055	11-25-02	Repeal	1-1-03
177-040-0030	3-14-03	Amend	4-1-03	177-050-0065	11-25-02	Repeal	1-1-03
177-040-0030	6-30-03	Amend	8-1-03	177-050-0075	11-25-02	Repeal	1-1-03
177-040-0040	11-25-02	Amend	1-1-03	177-051-0000	5-28-03	Adopt(T)	7-1-03
177-040-0050	11-25-02	Amend	1-1-03	177-051-0000	9-29-03	Adopt	11-1-03
177-040-0051	11-25-02	Adopt	1-1-03	177-051-0010	5-28-03	Adopt(T)	7-1-03
177-040-0051	3-14-03	Amend	4-1-03	177-051-0010	9-29-03	Adopt	11-1-03
177-040-0051	6-30-03	Amend	8-1-03	177-051-0020	5-28-03	Adopt(T)	7-1-03
177-040-0052	11-25-02	Adopt	1-1-03	177-051-0020	9-29-03	Adopt	11-1-03
177-040-0055	11-25-02	Amend	1-1-03	177-051-0030	5-28-03	Adopt(T)	7-1-03
177-040-0070	6-30-03	Amend	8-1-03	177-051-0030	9-29-03	Adopt	11-1-03
177-040-0105	11-25-02	Amend	1-1-03	177-051-0040	5-28-03	Adopt(T)	7-1-03
177-040-0110	3-14-03	Amend	4-1-03	177-051-0040	9-29-03	Adopt	11-1-03
177-040-0110	6-30-03	Amend	8-1-03	177-051-0050	5-28-03	Adopt(T)	7-1-03
177-040-0115	3-14-03	Amend	4-1-03	177-051-0050	9-29-03	Adopt	11-1-03
177-040-0115	6-30-03	Amend	8-1-03	177-051-0060	5-28-03	Adopt(T)	7-1-03
177-040-0120	3-14-03	Amend	4-1-03	177-051-0060	9-29-03	Adopt	11-1-03
177-040-0120	6-30-03	Amend	8-1-03	177-051-0070	5-28-03	Adopt(T)	7-1-03
177-040-0125	3-14-03	Amend	4-1-03	177-051-0070	9-29-03	Adopt	11-1-03
177-040-0125	6-30-03	Amend	8-1-03	177-051-0080	5-28-03	Adopt(T)	7-1-03
177-040-0130	3-14-03	Amend	4-1-03	177-051-0080	9-29-03	Adopt	11-1-03
177-040-0130	6-30-03	Amend	8-1-03	177-051-0090	5-28-03	Adopt(T)	7-1-03
177-040-0160	3-14-03	Amend	4-1-03	177-051-0090	9-29-03	Adopt	11-1-03
177-040-0160	6-30-03	Amend	8-1-03	177-051-0100	5-28-03	Adopt(T)	7-1-03
177-040-0180	3-14-03	Amend	4-1-03	177-051-0100	9-29-03	Adopt	11-1-03
177-040-0180	6-30-03	Amend	8-1-03	177-051-0110	5-28-03	Adopt(T)	7-1-03
177-040-0190	3-14-03	Amend	4-1-03	177-051-0110	9-29-03	Adopt	11-1-03
177-040-0190	6-30-03	Amend	8-1-03	177-051-0120	5-28-03	Adopt(T)	7-1-03
177-046-0010	11-25-02	Adopt	1-1-03	177-051-0120	9-29-03	Adopt	11-1-03
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177-065-0005	11-25-02	Amend	1-1-03	177-085-0035	6-30-03	Amend	8-1-03
177-065-0015	11-25-02	Amend	1-1-03	177-085-0040	2-3-03	Amend	3-1-03
177-065-0020	11-25-02	Amend	1-1-03	177-085-0045	2-3-03	Amend	3-1-03
177-065-0025	11-25-02	Amend	1-1-03	177-085-0050	2-3-03	Amend	3-1-03
177-065-0030	11-25-02	Amend	1-1-03	177-085-0055	2-3-03	Repeal	3-1-03
177-065-0035	11-25-02	Amend	1-1-03	177-085-0065	2-3-03	Amend	3-1-03
177-065-0040	11-25-02	Amend	1-1-03	177-091-0000	9-2-03	Adopt(T)	10-1-03
177-065-0045	11-25-02	Amend	1-1-03	177-091-0010	9-2-03	Adopt(T)	10-1-03
177-065-0055	11-25-02	Amend	1-1-03	177-091-0020	9-2-03	Adopt(T)	10-1-03
177-065-0065	11-25-02	Amend	1-1-03	177-091-0030	9-2-03	Adopt(T)	10-1-03
177-065-0075	11-25-02	Amend	1-1-03	177-091-0040	9-2-03	Adopt(T)	10-1-03
177-065-0080	11-25-02	Amend	1-1-03	177-091-0050	9-2-03	Adopt(T)	10-1-03
177-065-0100	11-25-02	Repeal	1-1-03	177-091-0060	9-2-03	Adopt(T)	10-1-03
177-070-0000	11-25-02	Repeal	1-1-03	177-091-0070	9-2-03	Adopt(T)	10-1-03
177-070-0005	11-25-02	Amend	1-1-03	177-091-0080	9-2-03	Adopt(T)	10-1-03
177-070-0010	11-25-02	Repeal	1-1-03	177-091-0090	9-2-03	Adopt(T)	10-1-03
177-070-0015	11-25-02	Repeal	1-1-03	177-091-0100	9-2-03	Adopt(T)	10-1-03
177-070-0025	11-25-02	Amend	1-1-03	177-091-0110	9-2-03	Adopt(T)	10-1-03
177-070-0035	11-25-02	Amend	1-1-03	177-094-0000	11-25-02	Amend	1-1-03
177-070-0055	11-25-02	Repeal	1-1-03	177-094-0010	11-25-02	Amend	1-1-03
177-070-0060	11-25-02	Repeal	1-1-03	177-094-0020	11-25-02	Amend	1-1-03
177-070-0065	11-25-02	Repeal	1-1-03	177-094-0030	11-25-02	Amend	1-1-03
177-070-0070	11-25-02	Repeal	1-1-03	177-094-0035	11-25-02	Repeal	1-1-03
177-070-0075	11-25-02	Repeal	1-1-03	177-094-0040	11-25-02	Amend	1-1-03
177-070-0080	11-25-02	Amend	1-1-03	177-094-0050	11-25-02	Amend	1-1-03
177-075-0000	11-25-02	Amend	1-1-03	177-094-0060	11-25-02	Amend	1-1-03
177-075-0005	11-25-02	Amend	1-1-03	177-094-0085	11-25-02	Amend	1-1-03
177-075-0010	11-25-02	Amend	1-1-03	177-094-0090	11-25-02	Repeal	1-1-03
177-075-0015	11-25-02	Amend	1-1-03	177-094-0095	11-25-02	Repeal	1-1-03
177-075-0020	11-25-02	Amend	1-1-03	177-099-0000	11-25-02	Amend	1-1-03
177-075-0027	11-25-02	Amend	1-1-03	177-099-0000	4-7-03	Amend(T)	5-1-03
177-075-0030	11-25-02	Amend	1-1-03	177-099-0000	6-30-03	Amend	8-1-03
177-075-0035	11-25-02	Amend	1-1-03	177-099-0010	11-25-02	Amend	1-1-03
177-075-0045	11-25-02	Repeal	1-1-03	177-099-0020	11-25-02	Amend	1-1-03
177-075-0050	11-25-02	Repeal	1-1-03	177-099-0020	4-7-03	Amend(T)	5-1-03
177-081-0000	11-25-02	Amend	1-1-03	177-099-0020	6-30-03	Amend	8-1-03
177-081-0010	11-25-02	Amend	1-1-03	177-099-0030	11-25-02	Amend	1-1-03
177-081-0020	11-25-02	Amend	1-1-03	177-099-0030	4-7-03	Amend(T)	5-1-03
177-081-0030	11-25-02	Amend	1-1-03	177-099-0030	6-30-03	Amend	8-1-03
177-081-0035	11-25-02	Repeal	1-1-03	177-099-0035	11-25-02	Repeal	1-1-03
177-081-0040	11-25-02	Amend	1-1-03	177-099-0040	11-25-02	Amend	1-1-03
177-081-0050	11-25-02	Amend	1-1-03	177-099-0040	4-7-03	Amend(T)	5-1-03
177-081-0060	11-25-02	Amend	1-1-03	177-099-0040	6-30-03	Amend	8-1-03
177-081-0080	11-25-02	Amend	1-1-03	177-099-0050	11-25-02	Amend	1-1-03
177-081-0090	11-25-02	Repeal	1-1-03	177-099-0050	4-7-03	Amend(T)	5-1-03
177-082-0100	9-2-03	Suspend	10-1-03	177-099-0050	6-30-03	Amend	8-1-03
177-085-0005	2-3-03	Amend	3-1-03	177-099-0060	11-25-02	Amend	1-1-03
177-085-0005	4-15-03	Amend(T)	5-1-03	177-099-0080	11-25-02	Amend	1-1-03
177-085-0005	6-30-03	Amend	8-1-03	177-099-0080	4-7-03	Amend(T)	5-1-03
177-085-0010	2-3-03	Amend	3-1-03	177-099-0080	6-30-03	Amend	8-1-03
177-085-0015	2-3-03	Amend	3-1-03	177-099-0090	11-25-02	Amend	1-1-03
177-085-0020	2-3-03	Amend	3-1-03	177-099-0090	4-7-03	Amend(T)	5-1-03
177-085-0025	2-3-03	Amend	3-1-03	177-099-0090	6-30-03	Amend	8-1-03
177-085-0030	2-3-03	Amend	3-1-03	177-099-0095	4-7-03	Adopt(T)	5-1-03

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177-099-0100	11-25-02	Amend	1-1-03	177-200-0080	6-5-03	Adopt(T)	7-1-03
177-099-0100	4-7-03	Amend(T)	5-1-03	177-200-0080	9-29-03	Adopt	11-1-03
177-099-0100	6-30-03	Amend	8-1-03	177-200-0090	6-5-03	Adopt(T)	7-1-03
177-099-0110	11-25-02	Repeal	1-1-03	177-200-0090	9-29-03	Adopt	11-1-03
177-100-0000	6-5-03	Amend(T)	7-1-03	191-010-0000	8-1-03	Amend	8-1-03
177-100-0000	9-29-03	Amend	11-1-03	213-050-0045	7-1-03	Adopt	8-1-03
177-100-0010	6-5-03	Amend(T)	7-1-03	213-050-0050	7-1-03	Adopt	8-1-03
177-100-0010	9-29-03	Amend	11-1-03	213-050-0055	7-1-03	Adopt	8-1-03
177-100-0070	6-5-03	Suspend	7-1-03	213-050-0060	7-1-03	Adopt	8-1-03
177-100-0070	9-29-03	Repeal	11-1-03	213-050-0065	7-1-03	Adopt	8-1-03
177-100-0080	6-5-03	Amend(T)	7-1-03	213-050-0070	7-1-03	Adopt	8-1-03
177-100-0080	9-29-03	Amend	11-1-03	213-050-0075	7-1-03	Adopt	8-1-03
177-100-0090	6-5-03	Amend(T)	7-1-03	213-050-0080	7-1-03	Adopt	8-1-03
177-100-0090	9-29-03	Amend	11-1-03	220-005-0005	7-1-03	Amend	7-1-03
177-100-0095	6-5-03	Amend(T)	7-1-03	220-005-0010	1-1-03	Amend	1-1-03
177-100-0095	9-29-03	Amend	11-1-03	220-005-0010	7-1-03	Amend	7-1-03
177-100-0130	6-5-03	Amend(T)	7-1-03	220-005-0015	7-1-03	Amend	7-1-03
177-100-0130	9-29-03	Amend	11-1-03	220-005-0110	7-1-03	Amend	7-1-03
177-100-0160	6-5-03	Amend(T)	7-1-03	220-005-0115	7-1-03	Amend	7-1-03
177-100-0160	9-29-03	Amend	11-1-03	220-005-0120	7-1-03	Amend	7-1-03
177-100-0170	6-5-03	Suspend	7-1-03	220-005-0130	7-1-03	Amend	7-1-03
177-100-0170	9-29-03	Repeal	11-1-03	220-005-0135	7-1-03	Amend	7-1-03
177-100-0180	6-5-03	Amend(T)	7-1-03	220-005-0140	7-1-03	Amend	7-1-03
177-100-0180	9-29-03	Amend	11-1-03	220-005-0150	7-1-03	Amend	7-1-03
177-100-0185	6-5-03	Amend(T)	7-1-03	220-005-0160	7-1-03	Amend	7-1-03
177-100-0185	9-29-03	Amend	11-1-03	220-005-0170	7-1-03	Amend	7-1-03
177-200-0000	6-5-03	Amend(T)	7-1-03	220-005-0180	7-1-03	Amend	7-1-03
177-200-0000	9-29-03	Amend	11-1-03	220-005-0210	7-1-03	Amend	7-1-03
177-200-0005	6-5-03	Adopt(T)	7-1-03	220-005-0220	7-1-03	Amend	7-1-03
177-200-0005	9-29-03	Adopt	11-1-03	220-005-0230	7-1-03	Amend	7-1-03
177-200-0010	6-5-03	Amend(T)	7-1-03	220-005-0240	7-1-03	Amend	7-1-03
177-200-0010	9-29-03	Amend	11-1-03	220-005-0250	7-1-03	Amend	7-1-03
177-200-0011	6-5-03	Adopt(T)	7-1-03	220-010-0010	7-1-03	Repeal	7-1-03
177-200-0011	9-29-03	Adopt	11-1-03	220-010-0020	7-1-03	Amend	7-1-03
177-200-0012	6-5-03	Adopt(T)	7-1-03	220-010-0030	7-1-03	Amend	7-1-03
177-200-0012	9-29-03	Adopt	11-1-03	220-010-0050	7-1-03	Amend	7-1-03
177-200-0015	6-5-03	Amend(T)	7-1-03	220-010-0060	7-1-03	Amend	7-1-03
177-200-0015	9-29-03	Amend	11-1-03	220-010-0200	7-1-03	Amend	7-1-03
177-200-0020	6-5-03	Amend(T)	7-1-03	220-010-0210	7-1-03	Repeal	7-1-03
177-200-0020	9-29-03	Amend	11-1-03	220-010-0300	7-1-03	Adopt	7-1-03
177-200-0030	6-5-03	Suspend	7-1-03	220-020-0010	7-1-03	Repeal	7-1-03
177-200-0030	9-29-03	Repeal	11-1-03	220-020-0020	7-1-03	Repeal	7-1-03
177-200-0032	6-5-03	Adopt(T)	7-1-03	220-020-0030	7-1-03	Repeal	7-1-03
177-200-0032	9-29-03	Adopt	11-1-03	220-020-0040	7-1-03	Repeal	7-1-03
177-200-0040	6-5-03	Suspend	7-1-03	220-030-0035	7-1-03	Amend	7-1-03
177-200-0040	9-29-03	Repeal	11-1-03	220-040-0015	7-1-03	Amend	7-1-03
177-200-0050	6-5-03	Amend(T)	7-1-03	220-040-0025	7-1-03	Amend	7-1-03
177-200-0050	9-29-03	Amend	11-1-03	220-040-0035	7-1-03	Amend	7-1-03
177-200-0055	6-5-03	Adopt(T)	7-1-03	220-040-0045	7-1-03	Amend	7-1-03
177-200-0055	9-29-03	Adopt	11-1-03	220-040-0050	7-1-03	Amend	7-1-03
177-200-0060	6-5-03	Amend(T)	7-1-03	220-050-0100	7-1-03	Repeal	7-1-03
177-200-0060	9-29-03	Amend	11-1-03	220-050-0105	7-1-03	Adopt	7-1-03
177-200-0065	6-5-03	Adopt(T)	7-1-03	220-050-0110	7-1-03	Amend	7-1-03
177-200-0065	9-29-03	Adopt	11-1-03	220-050-0120	7-1-03	Repeal	7-1-03
177-200-0070	6-5-03	Amend(T)	7-1-03	220-050-0140	7-1-03	Amend	7-1-03

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220-050-0200	7-1-03	Repeal	7-1-03	259-009-0087	11-18-02	Adopt	1-1-03
220-050-0300	7-1-03	Adopt	7-1-03	259-009-0090	11-18-02	Adopt	1-1-03
250-001-0020	1-14-03	Amend	2-1-03	259-009-0100	11-18-02	Adopt	1-1-03
250-018-0010	3-31-03	Amend	5-1-03	259-020-0005	1-21-03	Amend	3-1-03
250-018-0060	3-31-03	Amend	5-1-03	259-020-0010	1-21-03	Amend	3-1-03
250-018-0080	3-31-03	Amend	5-1-03	259-020-0015	1-21-03	Amend	3-1-03
250-020-0082	7-1-03	Amend(T)	7-1-03	259-020-0025	1-21-03	Amend	3-1-03
250-020-0171	7-7-03	Amend	8-1-03	259-025-0000	11-21-02	Amend	1-1-03
250-020-0204	6-12-03	Amend	7-1-03	259-060-0010	1-22-03	Amend	3-1-03
250-020-0380	1-14-03	Repeal	2-1-03	259-060-0015	1-22-03	Amend	3-1-03
255-032-0005	5-13-03	Amend	6-1-03	259-060-0020	6-16-03	Amend(T)	8-1-03
255-032-0010	5-13-03	Amend	6-1-03	259-060-0020	7-24-03	Amend	9-1-03
255-032-0015	5-13-03	Amend	6-1-03	259-060-0070	1-22-03	Amend	3-1-03
255-060-0009	6-13-03	Amend(T)	7-1-03	259-060-0120	1-22-03	Amend	3-1-03
255-060-0009	10-10-03	Amend	11-1-03	259-060-0130	1-22-03	Amend	3-1-03
255-060-0011	10-10-03	Amend	11-1-03	259-060-0300	1-22-03	Amend	3-1-03
255-070-0001	6-13-03	Amend(T)	7-1-03	259-060-0300	6-16-03	Amend(T)	8-1-03
255-070-0001	10-10-03	Amend	11-1-03	259-060-0300	7-24-03	Amend	9-1-03
255-075-0056	10-10-03	Amend	11-1-03	259-060-0450	1-22-03	Amend	3-1-03
255-075-0067	5-13-03	Amend	6-1-03	259-060-0500	7-24-03	Amend	9-1-03
255-075-0079	5-13-03	Amend	6-1-03	274-020-0340	4-7-03	Amend(T)	5-1-03
259-006-0000	4-11-03	Amend	5-1-03	274-020-0340	9-23-03	Amend	11-1-03
259-008-0000	11-18-02	Amend	1-1-03	274-020-0340(T)	9-23-03	Repeal	11-1-03
259-008-0005	11-18-02	Amend	1-1-03	274-020-0341	1-21-03	Amend(T)	3-1-03
259-008-0010	11-21-02	Amend	1-1-03	274-020-0341	3-24-03	Amend	5-1-03
259-008-0010	1-22-03	Amend	3-1-03	274-020-0341	4-21-03	Amend(T)	6-1-03
259-008-0010	4-11-03	Amend	5-1-03	274-020-0341	7-25-03	Amend(T)	9-1-03
259-008-0010	4-18-03	Amend	6-1-03	274-020-0341	8-1-03	Amend(T)	9-1-03
259-008-0020	11-18-02	Amend	1-1-03	274-020-0341	8-15-03	Amend(T)	9-1-03
259-008-0035	11-18-02	Amend	1-1-03	274-020-0341	9-23-03	Amend	11-1-03
259-008-0060	11-21-02	Amend	1-1-03	274-020-0341	10-8-03	Amend(T)	11-1-03
259-008-0062	11-18-02	Repeal	1-1-03	274-020-0341(T)	1-21-03	Suspend	3-1-03
259-008-0063	11-18-02	Repeal	1-1-03	274-020-0341(T)	3-24-03	Repeal	5-1-03
259-008-0065	11-18-02	Amend	1-1-03	274-020-0341(T)	7-25-03	Suspend	9-1-03
259-008-0065	4-22-03	Amend	6-1-03	274-020-0341(T)	8-1-03	Suspend	9-1-03
259-008-0067	4-22-03	Adopt	6-1-03	274-020-0341(T)	8-15-03	Suspend	9-1-03
259-008-0070	11-18-02	Amend	1-1-03	274-020-0341(T)	9-23-03	Repeal	11-1-03
259-008-0070	4-11-03	Amend	5-1-03	274-020-0445	4-7-03	Amend(T)	5-1-03
259-008-0080	11-18-02	Amend	1-1-03	274-020-0445	9-23-03	Amend	11-1-03
259-008-0085	11-18-02	Amend	1-1-03	274-020-0445(T)	9-23-03	Repeal	11-1-03
259-008-0087	11-18-02	Repeal	1-1-03	274-021-0005	4-23-03	Amend	6-1-03
259-009-0000	11-18-02	Adopt	1-1-03	274-021-0005(T)	4-23-03	Repeal	6-1-03
259-009-0005	11-18-02	Adopt	1-1-03	274-028-0020	4-7-03	Amend(T)	5-1-03
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259-009-0020	11-18-02	Adopt	1-1-03	274-028-0020(T)	9-23-03	Repeal	11-1-03
259-009-0025	11-18-02	Adopt	1-1-03	274-040-0030	1-1-03	Amend(T)	2-1-03
259-009-0030	11-18-02	Adopt	1-1-03	274-040-0030	8-21-03	Amend(T)	10-1-03
259-009-0035	11-18-02	Adopt	1-1-03	274-040-0030	10-1-03	Amend(T)	11-1-03
259-009-0062	11-18-02	Adopt	1-1-03	274-040-0030(T)	10-1-03	Suspend	11-1-03
259-009-0062	7-24-03	Amend	9-1-03	274-045-0060	4-7-03	Amend(T)	5-1-03
259-009-0063	11-18-02	Adopt	1-1-03	274-045-0060	9-23-03	Amend	11-1-03
259-009-0067	11-18-02	Adopt	1-1-03	274-045-0060(T)	9-23-03	Repeal	11-1-03
259-009-0070	11-18-02	Adopt	1-1-03	274-045-0441	4-7-03	Amend(T)	5-1-03
259-009-0072	11-18-02	Adopt	1-1-03	274-045-0441	9-23-03	Amend	11-1-03
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291-024-0010	2-5-03	Amend	3-1-03	291-063-0060	10-4-03	Adopt	11-1-03
291-024-0015	2-5-03	Amend	3-1-03	291-064-0060	5-19-03	Amend(T)	7-1-03
291-024-0016	2-5-03	Amend	3-1-03	291-077-0010	10-1-03	Amend	11-1-03
291-024-0017	2-5-03	Repeal	3-1-03	291-077-0020	10-1-03	Amend	11-1-03
291-024-0020	2-5-03	Amend	3-1-03	291-077-0030	2-28-03	Amend(T)	4-1-03
291-024-0025	2-5-03	Amend	3-1-03	291-077-0030	8-22-03	Amend	10-1-03
291-024-0055	2-5-03	Amend	3-1-03	291-077-0030	10-1-03	Amend	11-1-03
291-024-0060	2-5-03	Amend	3-1-03	291-077-0033	10-1-03	Amend	11-1-03
291-024-0070	2-5-03	Am. & Ren.	3-1-03	291-077-0035	10-1-03	Amend	11-1-03
291-024-0080	2-5-03	Amend	3-1-03	291-077-0040	10-1-03	Amend	11-1-03
291-025-0065	2-5-03	Am. & Ren.	3-1-03	291-109-0005	3-1-03	Repeal	3-1-03
291-031-0085	2-21-03	Adopt(T)	4-1-03	291-109-0015	3-1-03	Repeal	3-1-03
291-031-0085	8-20-03	Adopt	10-1-03	291-109-0020	3-1-03	Repeal	3-1-03
291-031-0095	2-21-03	Adopt(T)	4-1-03	291-109-0030	3-1-03	Repeal	3-1-03
291-031-0095	8-20-03	Adopt	10-1-03	291-109-0040	3-1-03	Repeal	3-1-03
291-031-0100	2-21-03	Adopt(T)	4-1-03	291-109-0050	3-1-03	Repeal	3-1-03
291-031-0100	8-20-03	Adopt	10-1-03	291-109-0060	3-1-03	Repeal	3-1-03
291-031-0110	2-21-03	Adopt(T)	4-1-03	291-109-0100	3-1-03	Adopt	3-1-03
291-031-0110	8-20-03	Adopt	10-1-03	291-109-0120	3-1-03	Adopt	3-1-03
291-031-0120	2-21-03	Adopt(T)	4-1-03	291-109-0130	3-1-03	Adopt	3-1-03
291-031-0120	8-20-03	Adopt	10-1-03	291-109-0140	3-1-03	Adopt	3-1-03
291-031-0130	2-21-03	Adopt(T)	4-1-03	291-113-0005	4-2-03	Amend	5-1-03
291-031-0130	8-20-03	Adopt	10-1-03	291-113-0010	4-2-03	Amend	5-1-03
291-031-0140	2-21-03	Adopt(T)	4-1-03	291-113-0015	4-2-03	Amend	5-1-03
291-031-0140	8-20-03	Adopt	10-1-03	291-113-0020	4-2-03	Repeal	5-1-03
291-031-0150	8-20-03	Adopt	10-1-03	291-113-0021	4-2-03	Adopt	5-1-03
291-031-0160	8-20-03	Adopt	10-1-03	291-113-0025	4-2-03	Repeal	5-1-03
291-031-0170	8-20-03	Adopt	10-1-03	291-113-0030	4-2-03	Amend	5-1-03
291-031-0180	8-20-03	Adopt	10-1-03	291-113-0035	4-2-03	Amend	5-1-03
291-031-0190	8-20-03	Adopt	10-1-03	291-203-0010	2-7-03	Adopt(T)	3-1-03
291-031-0200	8-20-03	Adopt	10-1-03	291-203-0010	8-6-03	Adopt	9-1-03
291-031-0210	8-20-03	Adopt	10-1-03	291-203-0020	2-7-03	Adopt(T)	3-1-03
291-062-0030	2-21-03	Amend(T)	4-1-03	291-203-0020	8-6-03	Adopt	9-1-03
291-062-0030	7-7-03	Amend	8-1-03	291-203-0030	2-7-03	Adopt(T)	3-1-03
291-063-0005	4-17-03	Amend(T)	6-1-03	291-203-0030	8-6-03	Adopt	9-1-03
291-063-0005	10-4-03	Amend	11-1-03	291-203-0040	8-6-03	Adopt	9-1-03
291-063-0010	4-17-03	Amend(T)	6-1-03	291-203-0050	8-6-03	Adopt	9-1-03
291-063-0010	10-4-03	Amend	11-1-03	291-203-0060	8-6-03	Adopt	9-1-03
291-063-0015	4-17-03	Suspend	6-1-03	291-203-0070	8-6-03	Adopt	9-1-03
291-063-0015	10-4-03	Repeal	11-1-03	291-203-0080	8-6-03	Adopt	9-1-03
291-063-0016	4-17-03	Adopt(T)	6-1-03	291-203-0090	8-6-03	Adopt	9-1-03
291-063-0016	10-4-03	Adopt	11-1-03	291-203-0100	8-6-03	Adopt	9-1-03
291-063-0020	4-17-03	Suspend	6-1-03	309-018-0120	3-10-03	Amend(T)	3-1-03
291-063-0020	10-4-03	Repeal	11-1-03	309-018-0130	3-10-03	Amend(T)	3-1-03
291-063-0025	4-17-03	Am. & Ren.(T)	6-1-03	309-018-0180	3-10-03	Amend(T)	3-1-03
291-063-0025	10-4-03	Am. & Ren.	11-1-03	309-036-0100	9-1-03	Adopt	9-1-03
291-063-0030	4-17-03	Amend(T)	6-1-03	309-036-0105	9-1-03	Adopt	9-1-03
291-063-0030	10-4-03	Amend	11-1-03	309-036-0110	9-1-03	Adopt	9-1-03
291-063-0034	4-17-03	Adopt(T)	6-1-03	309-036-0115	9-1-03	Adopt	9-1-03
291-063-0035	4-17-03	Suspend	6-1-03	309-036-0120	9-1-03	Adopt	9-1-03
291-063-0035	10-4-03	Repeal	11-1-03	309-036-0125	9-1-03	Adopt	9-1-03
291-063-0036	4-17-03	Adopt(T)	6-1-03	309-041-1110	7-1-03	Amend(T)	8-1-03
291-063-0036	10-4-03	Adopt	11-1-03	309-041-1115	7-1-03	Amend(T)	8-1-03
291-063-0040	4-17-03	Amend(T)	6-1-03	309-041-1120	7-1-03	Amend(T)	8-1-03

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309-041-1130	7-1-03	Amend(T)	8-1-03	330-060-0025	10-1-03	Repeal	11-1-03
309-041-1135	7-1-03	Amend(T)	8-1-03	330-060-0026	10-1-03	Repeal	11-1-03
309-041-1138	7-1-03	Adopt(T)	8-1-03	330-060-0030	10-1-03	Repeal	11-1-03
309-041-1140	7-1-03	Amend(T)	8-1-03	330-060-0035	10-1-03	Repeal	11-1-03
309-041-1142	7-1-03	Amend(T)	8-1-03	330-060-0040	10-1-03	Amend	11-1-03
309-041-1145	7-1-03	Amend(T)	8-1-03	330-060-0060	10-1-03	Amend	11-1-03
309-041-1150	7-1-03	Amend(T)	8-1-03	330-060-0065	10-1-03	Amend	11-1-03
309-041-1165	7-1-03	Amend(T)	8-1-03	330-060-0070	10-1-03	Amend	11-1-03
309-041-1170	7-1-03	Amend(T)	8-1-03	330-060-0075	10-1-03	Amend	11-1-03
309-041-1750	7-1-03	Amend(T)	8-1-03	330-060-0080	10-1-03	Repeal	11-1-03
309-041-1760	7-1-03	Amend(T)	8-1-03	330-060-0085	10-1-03	Repeal	11-1-03
309-041-1780	7-1-03	Amend(T)	8-1-03	330-060-0090	10-1-03	Amend	11-1-03
309-041-1800	7-1-03	Amend(T)	8-1-03	330-060-0095	10-1-03	Amend	11-1-03
309-041-1850	7-1-03	Amend(T)	8-1-03	330-061-0005	10-1-03	Amend	11-1-03
309-041-1860	7-1-03	Amend(T)	8-1-03	330-061-0010	10-1-03	Amend	11-1-03
309-041-1870	7-1-03	Amend(T)	8-1-03	330-061-0015	10-1-03	Amend	11-1-03
309-041-1880	7-1-03	Amend(T)	8-1-03	330-061-0020	10-1-03	Amend	11-1-03
309-041-1890	7-1-03	Amend(T)	8-1-03	330-061-0025	10-1-03	Amend	11-1-03
309-041-1910	7-1-03	Amend(T)	8-1-03	330-061-0030	10-1-03	Amend	11-1-03
309-041-2000	7-1-03	Adopt	8-1-03	330-061-0035	10-1-03	Amend	11-1-03
309-041-2010	7-1-03	Adopt	8-1-03	330-061-0040	10-1-03	Amend	11-1-03
309-041-2010	7-1-03	Amend(T)	8-1-03	330-061-0045	10-1-03	Amend	11-1-03
309-041-2020	7-1-03	Adopt	8-1-03	330-061-0050	10-1-03	Amend	11-1-03
309-041-2030	7-1-03	Adopt	8-1-03	330-130-0030	1-10-03	Amend	2-1-03
309-041-2030	7-1-03	Amend(T)	8-1-03	330-130-0040	1-10-03	Amend	2-1-03
309-041-2040	7-1-03	Adopt	8-1-03	330-130-0050	1-10-03	Amend	2-1-03
309-041-2040	7-1-03	Amend(T)	8-1-03	330-130-0060	1-10-03	Amend	2-1-03
309-041-2050	7-1-03	Adopt	8-1-03	330-130-0080	1-10-03	Amend	2-1-03
309-041-2060	7-1-03	Adopt	8-1-03	331-205-0030	5-15-03	Amend	6-1-03
309-041-2070	7-1-03	Adopt	8-1-03	331-400-0010	2-1-03	Amend	3-1-03
309-041-2070	7-1-03	Amend(T)	8-1-03	331-405-0020	2-1-03	Amend	3-1-03
309-041-2080	7-1-03	Adopt	8-1-03	331-405-0030	5-15-03	Amend	6-1-03
309-041-2080	7-1-03	Amend(T)	8-1-03	331-410-0000	2-1-03	Amend	3-1-03
309-041-2090	7-1-03	Adopt	8-1-03	331-420-0000	2-1-03	Amend	3-1-03
309-041-2090	7-1-03	Amend(T)	8-1-03	331-420-0010	2-1-03	Amend	3-1-03
309-041-2100	7-1-03	Adopt	8-1-03	331-420-0020	2-1-03	Amend	3-1-03
309-041-2100	7-1-03	Suspend	8-1-03	331-705-0060	1-1-03	Amend	2-1-03
309-041-2110	7-1-03	Adopt	8-1-03	333-005-0000	10-1-03	Adopt(T)	11-1-03
309-041-2110	7-1-03	Amend(T)	8-1-03	333-005-0010	10-1-03	Adopt(T)	11-1-03
309-041-2120	7-1-03	Adopt	8-1-03	333-005-0020	10-1-03	Adopt(T)	11-1-03
309-041-2120	7-1-03	Amend(T)	8-1-03	333-005-0030	10-1-03	Adopt(T)	11-1-03
309-041-2130	7-1-03	Adopt	8-1-03	333-005-0040	10-1-03	Adopt(T)	11-1-03
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309-041-2150	7-1-03	Adopt	8-1-03	333-005-0060	10-1-03	Adopt(T)	11-1-03
309-041-2150	7-1-03	Amend(T)	8-1-03	333-008-0010	7-1-03	Amend	8-1-03
309-041-2160	7-1-03	Adopt	8-1-03	333-008-0020	7-1-03	Amend	8-1-03
309-041-2170	7-1-03	Adopt	8-1-03	333-008-0040	7-1-03	Amend	8-1-03
309-041-2170	7-1-03	Amend(T)	8-1-03	333-011-0047	2-20-03	Amend(T)	4-1-03
309-041-2180	7-1-03	Adopt	8-1-03	333-011-0047	7-31-03	Amend	9-1-03
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330-001-0005	10-1-03	Amend	11-1-03	333-019-0017	5-22-03	Amend	7-1-03
330-060-0005	10-1-03	Amend	11-1-03	333-050-0010	12-13-02	Amend	1-1-03
330-060-0010	10-1-03	Amend	11-1-03	333-050-0020	12-13-02	Amend	1-1-03
330-060-0015	10-1-03	Amend	11-1-03	333-050-0030	12-13-02	Amend	1-1-03
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333-050-0080	12-13-02	Amend	1-1-03	333-100-0065	3-27-03	Amend	5-1-03
333-050-0090	12-13-02	Amend	1-1-03	333-100-0070	3-27-03	Amend	5-1-03
333-050-0100	12-13-02	Amend	1-1-03	333-100-0080	3-27-03	Adopt	5-1-03
333-050-0130	12-13-02	Amend	1-1-03	333-101-0001	3-27-03	Amend	5-1-03
333-050-0140	12-13-02	Amend	1-1-03	333-101-0003	3-27-03	Adopt	5-1-03
333-054-0000	12-24-02	Amend	2-1-03	333-101-0010	3-27-03	Amend	5-1-03
333-054-0010	12-24-02	Amend	2-1-03	333-102-0001	3-27-03	Amend	5-1-03
333-054-0020	12-24-02	Amend	2-1-03	333-102-0005	3-27-03	Amend	5-1-03
333-054-0030	12-24-02	Amend	2-1-03	333-102-0010	3-27-03	Amend	5-1-03
333-054-0040	12-24-02	Amend	2-1-03	333-102-0015	3-27-03	Amend	5-1-03
333-054-0050	12-24-02	Amend	2-1-03	333-102-0020	3-27-03	Amend	5-1-03
333-054-0060	12-24-02	Amend	2-1-03	333-102-0025	3-27-03	Amend	5-1-03
333-054-0070	12-24-02	Amend	2-1-03	333-102-0030	3-27-03	Amend	5-1-03
333-054-0090	12-24-02	Repeal	2-1-03	333-102-0035	3-27-03	Amend	5-1-03
333-061-0030	8-15-03	Amend	9-1-03	333-102-0040	3-27-03	Adopt	5-1-03
333-061-0032	8-15-03	Amend	9-1-03	333-102-0075	3-27-03	Amend	5-1-03
333-061-0036	8-15-03	Amend	9-1-03	333-102-0101	3-27-03	Amend	5-1-03
333-061-0040	8-15-03	Amend	9-1-03	333-102-0103	3-27-03	Amend	5-1-03
333-061-0042	8-15-03	Amend	9-1-03	333-102-0105	3-27-03	Amend	5-1-03
333-061-0043	8-15-03	Amend	9-1-03	333-102-0110	3-27-03	Amend	5-1-03
333-061-0045	8-15-03	Amend	9-1-03	333-102-0120	3-27-03	Amend	5-1-03
333-061-0046	8-15-03	Amend	9-1-03	333-102-0125	3-27-03	Amend	5-1-03
333-061-0050	8-15-03	Amend	9-1-03	333-102-0130	3-27-03	Amend	5-1-03
333-061-0064	8-15-03	Amend	9-1-03	333-102-0135	3-27-03	Amend	5-1-03
333-061-0076	8-15-03	Amend	9-1-03	333-102-0190	3-27-03	Adopt	5-1-03
333-061-0077	8-15-03	Amend	9-1-03	333-102-0200	3-27-03	Amend	5-1-03
333-061-0097	8-15-03	Amend	9-1-03	333-102-0203	3-27-03	Amend	5-1-03
333-061-0250	3-28-03	Amend	5-1-03	333-102-0225	3-27-03	Repeal	5-1-03
333-061-0260	3-28-03	Amend	5-1-03	333-102-0235	3-27-03	Amend	5-1-03
333-064-0005	9-22-03	Amend(T)	11-1-03	333-102-0240	3-27-03	Repeal	5-1-03
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333-064-0025	7-1-03	Amend	6-1-03	333-102-0250	3-27-03	Amend	5-1-03
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333-064-0030	9-22-03	Amend(T)	11-1-03	333-102-0260	3-27-03	Amend	5-1-03
333-064-0035	9-22-03	Amend(T)	11-1-03	333-102-0265	3-27-03	Amend	5-1-03
333-064-0040	9-22-03	Amend(T)	11-1-03	333-102-0270	3-27-03	Amend	5-1-03
333-064-0060	9-22-03	Amend(T)	11-1-03	333-102-0275	3-27-03	Amend	5-1-03
333-064-0065	9-22-03	Amend(T)	11-1-03	333-102-0285	3-27-03	Amend	5-1-03
333-064-0070	9-22-03	Adopt(T)	11-1-03	333-102-0287	3-27-03	Repeal	5-1-03
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333-069-0015	6-20-03	Amend	8-1-03	333-102-0293	3-27-03	Amend	5-1-03
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333-069-0030	6-20-03	Amend	8-1-03	333-102-0300	3-27-03	Amend	5-1-03
333-069-0040	6-20-03	Amend	8-1-03	333-102-0305	3-27-03	Amend	5-1-03
333-069-0050	6-20-03	Amend	8-1-03	333-102-0310	3-27-03	Amend	5-1-03
333-069-0060	6-20-03	Amend	8-1-03	333-102-0315	3-27-03	Amend	5-1-03
333-069-0070	6-20-03	Amend	8-1-03	333-102-0327	3-27-03	Amend	5-1-03
333-069-0075	6-20-03	Adopt	8-1-03	333-102-0330	3-27-03	Amend	5-1-03
333-069-0080	6-20-03	Amend	8-1-03	333-102-0335	3-27-03	Amend	5-1-03
333-069-0085	6-20-03	Adopt	8-1-03	333-102-0340	3-27-03	Amend	5-1-03
333-069-0090	6-20-03	Amend	8-1-03	333-102-0350	3-27-03	Adopt	5-1-03
333-100-0001	3-27-03	Amend	5-1-03	333-102-0355	3-27-03	Adopt	5-1-03
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333-105-0001	3-27-03	Amend	5-1-03	333-105-0720	3-27-03	Adopt	5-1-03
333-105-0003	3-27-03	Adopt	5-1-03	333-105-0730	3-27-03	Adopt	5-1-03
333-105-0005	3-27-03	Amend	5-1-03	333-105-0740	3-27-03	Adopt	5-1-03
333-105-0050	3-27-03	Adopt	5-1-03	333-105-0750	3-27-03	Adopt	5-1-03
333-105-0075	3-27-03	Adopt	5-1-03	333-105-0760	3-27-03	Adopt	5-1-03
333-105-0101	3-27-03	Repeal	5-1-03	333-106-0005	3-27-03	Amend	5-1-03
333-105-0105	3-27-03	Repeal	5-1-03	333-106-0035	3-27-03	Amend	5-1-03
333-105-0110	3-27-03	Repeal	5-1-03	333-106-0045	3-27-03	Amend	5-1-03
333-105-0115	3-27-03	Repeal	5-1-03	333-106-0055	3-27-03	Amend	5-1-03
333-105-0120	3-27-03	Repeal	5-1-03	333-106-0101	3-27-03	Amend	5-1-03
333-105-0125	3-27-03	Repeal	5-1-03	333-106-0105	3-27-03	Amend	5-1-03
333-105-0130	3-27-03	Repeal	5-1-03	333-106-0210	3-27-03	Amend	5-1-03
333-105-0135	3-27-03	Repeal	5-1-03	333-106-0220	3-27-03	Amend	5-1-03
333-105-0140	3-27-03	Repeal	5-1-03	333-106-0325	3-27-03	Amend	5-1-03
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333-105-0325	3-27-03	Repeal	5-1-03	333-116-0025	3-27-03	Adopt	5-1-03
333-105-0330	3-27-03	Repeal	5-1-03	333-116-0035	3-27-03	Adopt	5-1-03
333-105-0335	3-27-03	Repeal	5-1-03	333-116-0040	3-27-03	Amend	5-1-03
333-105-0420	3-27-03	Adopt	5-1-03	333-116-0050	3-27-03	Amend	5-1-03
333-105-0430	3-27-03	Adopt	5-1-03	333-116-0055	3-27-03	Adopt	5-1-03
333-105-0440	3-27-03	Adopt	5-1-03	333-116-0057	3-27-03	Adopt	5-1-03
333-105-0450	3-27-03	Adopt	5-1-03	333-116-0059	3-27-03	Adopt	5-1-03
333-105-0460	3-27-03	Adopt	5-1-03	333-116-0070	3-27-03	Amend	5-1-03
333-105-0470	3-27-03	Adopt	5-1-03	333-116-0080	3-27-03	Amend	5-1-03
333-105-0480	3-27-03	Adopt	5-1-03	333-116-0090	3-27-03	Amend	5-1-03
333-105-0490	3-27-03	Adopt	5-1-03	333-116-0100	3-27-03	Amend	5-1-03
333-105-0500	3-27-03	Adopt	5-1-03	333-116-0105	3-27-03	Adopt	5-1-03
333-105-0510	3-27-03	Adopt	5-1-03	333-116-0107	3-27-03	Adopt	5-1-03
333-105-0520	3-27-03	Adopt	5-1-03	333-116-0120	3-27-03	Amend	5-1-03
333-105-0530	3-27-03	Adopt	5-1-03	333-116-0125	3-27-03	Amend	5-1-03
333-105-0540	3-27-03	Adopt	5-1-03	333-116-0140	3-27-03	Amend	5-1-03
333-105-0550	3-27-03	Adopt	5-1-03	333-116-0150	3-27-03	Amend	5-1-03
333-105-0560	3-27-03	Adopt	5-1-03	333-116-0160	3-27-03	Amend	5-1-03
333-105-0570	3-27-03	Adopt	5-1-03	333-116-0165	3-27-03	Adopt	5-1-03
333-105-0580	3-27-03	Adopt	5-1-03	333-116-0170	3-27-03	Amend	5-1-03
333-105-0590	3-27-03	Adopt	5-1-03	333-116-0180	3-27-03	Amend	5-1-03
333-105-0600	3-27-03	Adopt	5-1-03	333-116-0190	3-27-03	Amend	5-1-03
333-105-0610	3-27-03	Adopt	5-1-03	333-116-0200	3-27-03	Amend	5-1-03
333-105-0620	3-27-03	Adopt	5-1-03	333-116-0250	3-27-03	Amend	5-1-03
333-105-0630	3-27-03	Adopt	5-1-03	333-116-0260	3-27-03	Amend	5-1-03
333-105-0640	3-27-03	Adopt	5-1-03	333-116-0265	3-27-03	Adopt	5-1-03
333-105-0650	3-27-03	Adopt	5-1-03	333-116-0290	3-27-03	Amend	5-1-03
333-105-0660	3-27-03	Adopt	5-1-03	333-116-0300	3-27-03	Amend	5-1-03
333-105-0670	3-27-03	Adopt	5-1-03	333-116-0310	3-27-03	Amend	5-1-03
333-105-0680	3-27-03	Adopt	5-1-03	333-116-0320	3-27-03	Amend	5-1-03
333-105-0690	3-27-03	Adopt	5-1-03	333-116-0330	3-27-03	Amend	5-1-03

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333-116-0350	3-27-03	Amend	5-1-03	333-118-0170	3-27-03	Amend	5-1-03
333-116-0360	3-27-03	Amend	5-1-03	333-118-0180	3-27-03	Amend	5-1-03
333-116-0370	3-27-03	Amend	5-1-03	333-118-0190	3-27-03	Amend	5-1-03
333-116-0380	3-27-03	Amend	5-1-03	333-118-0200	3-27-03	Amend	5-1-03
333-116-0390	3-27-03	Amend	5-1-03	333-118-0800	3-27-03	Adopt	5-1-03
333-116-0410	3-27-03	Amend	5-1-03	333-119-0030	3-27-03	Amend	5-1-03
333-116-0420	3-27-03	Amend	5-1-03	333-119-0040	3-27-03	Amend	5-1-03
333-116-0430	3-27-03	Amend	5-1-03	333-119-0080	3-27-03	Amend	5-1-03
333-116-0440	3-27-03	Amend	5-1-03	333-119-0090	3-27-03	Amend	5-1-03
333-116-0450	3-27-03	Amend	5-1-03	333-119-0100	3-27-03	Amend	5-1-03
333-116-0460	3-27-03	Amend	5-1-03	333-119-0120	3-27-03	Amend	5-1-03
333-116-0470	3-27-03	Amend	5-1-03	333-120-0015	3-27-03	Adopt	5-1-03
333-116-0480	3-27-03	Amend	5-1-03	333-120-0017	3-27-03	Adopt	5-1-03
333-116-0490	3-27-03	Amend	5-1-03	333-120-0100	3-27-03	Amend	5-1-03
333-116-0495	3-27-03	Adopt	5-1-03	333-120-0110	3-27-03	Amend	5-1-03
333-116-0510	3-27-03	Repeal	5-1-03	333-120-0130	3-27-03	Amend	5-1-03
333-116-0515	3-27-03	Adopt	5-1-03	333-120-0170	3-27-03	Amend	5-1-03
333-116-0525	3-27-03	Adopt	5-1-03	333-120-0180	3-27-03	Amend	5-1-03
333-116-0530	3-27-03	Amend	5-1-03	333-120-0190	3-27-03	Amend	5-1-03
333-116-0540	3-27-03	Amend	5-1-03	333-120-0200	3-27-03	Amend	5-1-03
333-116-0560	3-27-03	Amend	5-1-03	333-120-0210	3-27-03	Amend	5-1-03
333-116-0570	3-27-03	Amend	5-1-03	333-120-0215	3-27-03	Adopt	5-1-03
333-116-0573	3-27-03	Adopt	5-1-03	333-120-0220	3-27-03	Amend	5-1-03
333-116-0577	3-27-03	Adopt	5-1-03	333-120-0230	3-27-03	Amend	5-1-03
333-116-0580	3-27-03	Amend	5-1-03	333-120-0240	3-27-03	Amend	5-1-03
333-116-0583	3-27-03	Adopt	5-1-03	333-120-0250	3-27-03	Amend	5-1-03
333-116-0585	3-27-03	Adopt	5-1-03	333-120-0320	3-27-03	Amend	5-1-03
333-116-0587	3-27-03	Adopt	5-1-03	333-120-0400	3-27-03	Amend	5-1-03
333-116-0590	3-27-03	Amend	5-1-03	333-120-0420	3-27-03	Amend	5-1-03
333-116-0600	3-27-03	Amend	5-1-03	333-120-0430	3-27-03	Amend	5-1-03
333-116-0605	3-27-03	Adopt	5-1-03	333-120-0450	3-27-03	Amend	5-1-03
333-116-0610	3-27-03	Amend	5-1-03	333-120-0460	3-27-03	Amend	5-1-03
333-116-0640	3-27-03	Amend	5-1-03	333-120-0520	3-27-03	Amend	5-1-03
333-116-0660	3-27-03	Amend	5-1-03	333-120-0540	3-27-03	Amend	5-1-03
333-116-0670	3-27-03	Amend	5-1-03	333-120-0550	3-27-03	Amend	5-1-03
333-116-0680	3-27-03	Amend	5-1-03	333-120-0560	3-27-03	Amend	5-1-03
333-116-0720	3-27-03	Amend	5-1-03	333-120-0600	3-27-03	Amend	5-1-03
333-116-0730	3-27-03	Amend	5-1-03	333-120-0610	3-27-03	Amend	5-1-03
333-116-0830	3-27-03	Amend	5-1-03	333-120-0640	3-27-03	Amend	5-1-03
333-116-0905	3-27-03	Adopt	5-1-03	333-120-0650	3-27-03	Amend	5-1-03
333-116-0910	3-27-03	Adopt	5-1-03	333-120-0660	3-27-03	Amend	5-1-03
333-116-0915	3-27-03	Adopt	5-1-03	333-120-0670	3-27-03	Amend	5-1-03
333-118-0020	3-27-03	Amend	5-1-03	333-120-0680	3-27-03	Amend	5-1-03
333-118-0040	3-27-03	Amend	5-1-03	333-120-0700	3-27-03	Amend	5-1-03
333-118-0050	3-27-03	Amend	5-1-03	333-120-0710	3-27-03	Amend	5-1-03
333-118-0060	3-27-03	Amend	5-1-03	333-120-0720	3-27-03	Amend	5-1-03
333-118-0070	3-27-03	Amend	5-1-03	333-157-0045	1-1-03	Amend	1-1-03
333-118-0080	3-27-03	Amend	5-1-03	333-162-1005	1-1-03	Adopt	1-1-03
333-118-0090	3-27-03	Amend	5-1-03	333-500-0010	12-10-02	Amend	1-1-03
333-118-0100	3-27-03	Amend	5-1-03	333-500-0050	12-10-02	Amend	1-1-03
333-118-0110	3-27-03	Amend	5-1-03	333-500-0056	12-10-02	Adopt	1-1-03
333-118-0120	3-27-03	Amend	5-1-03	333-500-0057	12-10-02	Adopt	1-1-03
333-118-0130	3-27-03	Amend	5-1-03	333-505-0005	12-10-02	Amend	1-1-03
333-118-0140	3-27-03	Amend	5-1-03	333-510-0045	12-10-02	Amend	1-1-03
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333-535-0041	2-20-03	Adopt	4-1-03	334-010-0010	1-24-03	Amend	3-1-03
333-536-0000	2-1-03	Adopt	1-1-03	334-010-0015	1-24-03	Amend	3-1-03
333-536-0005	2-1-03	Adopt	1-1-03	334-010-0016	1-24-03	Amend	3-1-03
333-536-0010	2-1-03	Adopt	1-1-03	334-010-0017	1-24-03	Amend	3-1-03
333-536-0015	2-1-03	Adopt	1-1-03	334-010-0025	1-24-03	Amend	3-1-03
333-536-0020	2-1-03	Adopt	1-1-03	334-010-0033	1-24-03	Amend	3-1-03
333-536-0025	2-1-03	Adopt	1-1-03	334-010-0050	1-24-03	Amend	3-1-03
333-536-0030	2-1-03	Adopt	1-1-03	335-060-0005	5-7-03	Amend	6-1-03
333-536-0035	2-1-03	Adopt	1-1-03	335-060-0010	5-7-03	Amend	6-1-03
333-536-0040	2-1-03	Adopt	1-1-03	335-060-0030	5-7-03	Amend	6-1-03
333-536-0045	2-1-03	Adopt	1-1-03	335-070-0010	5-7-03	Amend	6-1-03
333-536-0050	2-1-03	Adopt	1-1-03	335-070-0020	5-7-03	Amend	6-1-03
333-536-0055	2-1-03	Adopt	1-1-03	335-070-0060	5-7-03	Amend	6-1-03
333-536-0060	2-1-03	Adopt	1-1-03	335-070-0065	5-7-03	Amend	6-1-03
333-536-0065	2-1-03	Adopt	1-1-03	335-070-0075	5-7-03	Adopt	6-1-03
333-536-0070	2-1-03	Adopt	1-1-03	335-095-0010	5-7-03	Adopt	6-1-03
333-536-0075	2-1-03	Adopt	1-1-03	335-095-0020	5-7-03	Adopt	6-1-03
333-536-0080	2-1-03	Adopt	1-1-03	335-095-0030	5-7-03	Adopt	6-1-03
333-536-0085	2-1-03	Adopt	1-1-03	335-095-0040	5-7-03	Adopt	6-1-03
333-536-0090	2-1-03	Adopt	1-1-03	335-095-0050	5-7-03	Adopt	6-1-03
333-536-0095	2-1-03	Adopt	1-1-03	335-095-0060	5-7-03	Adopt	6-1-03
333-560-0010	7-31-03	Amend(T)	9-1-03	335-095-0065	5-7-03	Adopt	6-1-03
333-635-0000	7-31-03	Suspend	9-1-03	337-001-0025	8-15-03	Adopt	9-1-03
333-635-0010	7-31-03	Suspend	9-1-03	337-010-0006	8-15-03	Amend	9-1-03
333-635-0020	7-31-03	Suspend	9-1-03	337-010-0025	8-15-03	Amend	9-1-03
333-635-0030	7-31-03	Suspend	9-1-03	337-010-0030	11-18-02	Amend	1-1-03
333-700-0000	6-6-03	Adopt	7-1-03	337-010-0060	11-18-02	Amend	1-1-03
333-700-0005	6-6-03	Adopt	7-1-03	337-020-0000	8-15-03	Repeal	9-1-03
333-700-0010	6-6-03	Adopt	7-1-03	337-020-0015	8-15-03	Adopt	9-1-03
333-700-0015	6-6-03	Adopt	7-1-03	337-020-0020	8-15-03	Repeal	9-1-03
333-700-0020	6-6-03	Adopt	7-1-03	337-021-0040	11-18-02	Amend	1-1-03
333-700-0025	6-6-03	Adopt	7-1-03	337-021-0070	11-18-02	Adopt	1-1-03
333-700-0030	6-6-03	Adopt	7-1-03	337-021-0080	11-18-02	Adopt	1-1-03
333-700-0035	6-6-03	Adopt	7-1-03	338-010-0030	4-25-03	Amend(T)	6-1-03
333-700-0040	6-6-03	Adopt	7-1-03	338-010-0030	10-1-03	Amend	11-1-03
333-700-0045	6-6-03	Adopt	7-1-03	339-010-0005	9-11-03	Amend	10-1-03
333-700-0050	6-6-03	Adopt	7-1-03	339-020-0020	3-4-03	Amend	4-1-03
333-700-0055	6-6-03	Adopt	7-1-03	339-020-0020	9-11-03	Amend	10-1-03
333-700-0060	6-6-03	Adopt	7-1-03	339-020-0030	9-11-03	Amend	10-1-03
333-700-0065	6-6-03	Adopt	7-1-03	339-020-0040	9-11-03	Amend	10-1-03
333-700-0070	6-6-03	Adopt	7-1-03	339-020-0050	9-11-03	Amend	10-1-03
333-700-0075	6-6-03	Adopt	7-1-03	339-020-0060	9-11-03	Amend	10-1-03
333-700-0080	6-6-03	Adopt	7-1-03	339-020-0070	9-11-03	Amend	10-1-03
333-700-0085	6-6-03	Adopt	7-1-03	339-020-0100	9-11-03	Amend	10-1-03
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333-700-0100	6-6-03	Adopt	7-1-03	340-012-0067	2-14-03	Amend	3-1-03
333-700-0105	6-6-03	Adopt	7-1-03	340-012-0069	1-31-03	Repeal	3-1-03
333-700-0110	6-6-03	Adopt	7-1-03	340-012-0081	1-31-03	Adopt	3-1-03
333-700-0115	6-6-03	Adopt	7-1-03	340-012-0081	4-21-03	Amend	6-1-03
333-700-0120	6-6-03	Adopt	7-1-03	340-012-0082	1-31-03	Adopt	3-1-03
333-700-0125	6-6-03	Adopt	7-1-03	340-012-0083	1-31-03	Adopt	3-1-03
333-700-0130	6-6-03	Adopt	7-1-03	340-012-0090	1-31-03	Amend	3-1-03
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340-015-0020	5-27-03	Repeal	7-1-03	340-053-0027	5-27-03	Repeal	7-1-03
340-015-0025	5-27-03	Repeal	7-1-03	340-053-0030	5-27-03	Repeal	7-1-03
340-015-0030	5-27-03	Repeal	7-1-03	340-053-0035	5-27-03	Repeal	7-1-03
340-015-0035	5-27-03	Repeal	7-1-03	340-054-0005	5-27-03	Amend	7-1-03
340-018-0020	5-27-03	Amend	7-1-03	340-054-0010	5-27-03	Amend	7-1-03
340-018-0030	5-27-03	Amend	7-1-03	340-054-0015	5-27-03	Amend	7-1-03
340-042-0025	12-20-02	Adopt	2-1-03	340-054-0020	5-27-03	Amend	7-1-03
340-042-0030	12-20-02	Adopt	2-1-03	340-054-0021	5-27-03	Adopt	7-1-03
340-042-0040	12-20-02	Adopt	2-1-03	340-054-0022	5-27-03	Adopt	7-1-03
340-042-0050	12-20-02	Adopt	2-1-03	340-054-0023	5-27-03	Adopt	7-1-03
340-042-0060	12-20-02	Adopt	2-1-03	340-054-0024	5-27-03	Adopt	7-1-03
340-042-0070	12-20-02	Adopt	2-1-03	340-054-0025	5-27-03	Amend	7-1-03
340-042-0080	12-20-02	Adopt	2-1-03	340-054-0035	5-27-03	Amend	7-1-03
340-045-0015	9-2-03	Amend	10-1-03	340-054-0055	5-27-03	Amend	7-1-03
340-045-0033	9-2-03	Amend	10-1-03	340-054-0060	5-27-03	Amend	7-1-03
340-047-0005	1-31-03	Repeal	3-1-03	340-054-0065	5-27-03	Amend	7-1-03
340-047-0010	1-31-03	Repeal	3-1-03	340-054-0080	5-27-03	Repeal	7-1-03
340-047-0015	1-31-03	Repeal	3-1-03	340-054-0085	5-27-03	Amend	7-1-03
340-047-0020	1-31-03	Repeal	3-1-03	340-054-0087	5-27-03	Amend	7-1-03
340-047-0025	1-31-03	Repeal	3-1-03	340-054-0090	5-27-03	Amend	7-1-03
340-047-0035	1-31-03	Repeal	3-1-03	340-054-0093	5-27-03	Amend	7-1-03
340-047-0040	1-31-03	Repeal	3-1-03	340-054-0095	5-27-03	Amend	7-1-03
340-047-0100	1-31-03	Repeal	3-1-03	340-054-0097	5-27-03	Amend	7-1-03
340-047-0110	1-31-03	Repeal	3-1-03	340-108-0001	1-31-03	Repeal	3-1-03
340-047-0120	1-31-03	Repeal	3-1-03	340-108-0002	1-31-03	Repeal	3-1-03
340-047-0130	1-31-03	Repeal	3-1-03	340-108-0010	1-31-03	Repeal	3-1-03
340-047-0140	1-31-03	Repeal	3-1-03	340-108-0020	1-31-03	Repeal	3-1-03
340-047-0150	1-31-03	Repeal	3-1-03	340-108-0030	1-31-03	Repeal	3-1-03
340-047-0160	1-31-03	Repeal	3-1-03	340-108-0040	1-31-03	Repeal	3-1-03
340-047-0170	1-31-03	Repeal	3-1-03	340-108-0050	1-31-03	Repeal	3-1-03
340-047-0180	1-31-03	Repeal	3-1-03	340-108-0070	1-31-03	Repeal	3-1-03
340-047-0190	1-31-03	Repeal	3-1-03	340-108-0080	1-31-03	Repeal	3-1-03
340-047-0200	1-31-03	Repeal	3-1-03	340-122-0210	2-14-03	Amend	3-1-03
340-047-0210	1-31-03	Repeal	3-1-03	340-141-0001	1-31-03	Adopt	3-1-03
340-047-0220	1-31-03	Repeal	3-1-03	340-141-0005	1-31-03	Adopt	3-1-03
340-047-0230	1-31-03	Repeal	3-1-03	340-141-0010	1-31-03	Adopt	3-1-03
340-047-0240	1-31-03	Repeal	3-1-03	340-141-0100	1-31-03	Adopt	3-1-03
340-051-0005	9-2-03	Amend	10-1-03	340-141-0130	1-31-03	Adopt	3-1-03
340-051-0007	9-2-03	Adopt	10-1-03	340-141-0140	1-31-03	Adopt	3-1-03
340-051-0010	9-2-03	Amend	10-1-03	340-141-0150	1-31-03	Adopt	3-1-03
340-051-0015	9-2-03	Amend	10-1-03	340-141-0160	1-31-03	Adopt	3-1-03
340-051-0020	9-2-03	Amend	10-1-03	340-141-0170	1-31-03	Adopt	3-1-03
340-051-0025	9-2-03	Amend	10-1-03	340-141-0180	1-31-03	Adopt	3-1-03
340-051-0030	9-2-03	Amend	10-1-03	340-141-0190	1-31-03	Adopt	3-1-03
340-051-0050	9-2-03	Amend	10-1-03	340-141-0200	1-31-03	Adopt	3-1-03
340-051-0055	9-2-03	Amend	10-1-03	340-141-0210	1-31-03	Adopt	3-1-03
340-051-0060	9-2-03	Amend	10-1-03	340-141-0220	1-31-03	Adopt	3-1-03
340-051-0065	9-2-03	Amend	10-1-03	340-141-0230	1-31-03	Adopt	3-1-03
340-051-0070	9-2-03	Amend	10-1-03	340-141-0240	1-31-03	Adopt	3-1-03
340-051-0075	9-2-03	Amend	10-1-03	340-142-0001	1-31-03	Adopt	3-1-03
340-051-0080	9-2-03	Amend	10-1-03	340-142-0005	1-31-03	Adopt	3-1-03
340-053-0005	5-27-03	Repeal	7-1-03	340-142-0030	1-31-03	Adopt	3-1-03
340-053-0010	5-27-03	Repeal	7-1-03	340-142-0040	1-31-03	Adopt	3-1-03
340-053-0015	5-27-03	Repeal	7-1-03	340-142-0050	1-31-03	Adopt	3-1-03
340-053-0020	5-27-03	Repeal	7-1-03	340-142-0060	1-31-03	Adopt	3-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-142-0070	1-31-03	Adopt	3-1-03	340-150-0410	2-14-03	Adopt	3-1-03
340-142-0080	1-31-03	Adopt	3-1-03	340-150-0420	2-14-03	Adopt	3-1-03
340-142-0090	1-31-03	Adopt	3-1-03	340-150-0430	2-14-03	Adopt	3-1-03
340-142-0100	1-31-03	Adopt	3-1-03	340-150-0435	2-14-03	Adopt	3-1-03
340-142-0120	1-31-03	Adopt	3-1-03	340-150-0440	2-14-03	Adopt	3-1-03
340-142-0130	1-31-03	Adopt	3-1-03	340-150-0445	2-14-03	Adopt	3-1-03
340-150-0001	2-14-03	Amend	3-1-03	340-150-0450	2-14-03	Adopt	3-1-03
340-150-0002	2-14-03	Repeal	3-1-03	340-150-0455	2-14-03	Adopt	3-1-03
340-150-0003	2-14-03	Repeal	3-1-03	340-150-0460	2-14-03	Adopt	3-1-03
340-150-0006	2-14-03	Adopt	3-1-03	340-150-0465	2-14-03	Adopt	3-1-03
340-150-0008	2-14-03	Adopt	3-1-03	340-150-0470	2-14-03	Adopt	3-1-03
340-150-0010	2-14-03	Amend	3-1-03	340-150-0500	2-14-03	Adopt	3-1-03
340-150-0010	5-21-03	Amend(T)	7-1-03	340-150-0510	2-14-03	Adopt	3-1-03
340-150-0015	2-14-03	Repeal	3-1-03	340-150-0520	2-14-03	Adopt	3-1-03
340-150-0016	2-14-03	Repeal	3-1-03	340-150-0540	2-14-03	Adopt	3-1-03
340-150-0019	2-14-03	Repeal	3-1-03	340-150-0550	2-14-03	Adopt	3-1-03
340-150-0020	2-14-03	Amend	3-1-03	340-150-0555	2-14-03	Adopt	3-1-03
340-150-0021	2-14-03	Amend	3-1-03	340-150-0560	2-14-03	Adopt	3-1-03
340-150-0030	2-14-03	Repeal	3-1-03	340-151-0001	2-14-03	Adopt	3-1-03
340-150-0040	2-14-03	Repeal	3-1-03	340-151-0010	2-14-03	Adopt	3-1-03
340-150-0050	2-14-03	Repeal	3-1-03	340-151-0015	2-14-03	Adopt	3-1-03
340-150-0052	2-14-03	Adopt	3-1-03	340-151-0020	2-14-03	Adopt	3-1-03
340-150-0060	2-14-03	Repeal	3-1-03	340-151-0025	2-14-03	Adopt	3-1-03
340-150-0070	2-14-03	Repeal	3-1-03	340-160-0005	2-14-03	Amend	3-1-03
340-150-0080	2-14-03	Amend	3-1-03	340-160-0010	2-14-03	Amend	3-1-03
340-150-0090	2-14-03	Repeal	3-1-03	340-160-0020	2-14-03	Amend	3-1-03
340-150-0100	2-14-03	Repeal	3-1-03	340-160-0025	2-14-03	Amend	3-1-03
340-150-0102	2-14-03	Adopt	3-1-03	340-160-0030	2-14-03	Amend	3-1-03
340-150-0110	2-14-03	Amend	3-1-03	340-160-0035	2-14-03	Amend	3-1-03
340-150-0112	2-14-03	Repeal	3-1-03	340-160-0040	2-14-03	Amend	3-1-03
340-150-0115	2-14-03	Am. & Ren.	3-1-03	340-160-0054	2-14-03	Amend	3-1-03
340-150-0125	2-14-03	Am. & Ren.	3-1-03	340-160-0150	2-14-03	Amend	3-1-03
340-150-0130	2-14-03	Repeal	3-1-03	340-200-0040	2-6-03	Amend	3-1-03
340-150-0135	2-14-03	Adopt	3-1-03	340-220-0030	7-23-03	Amend	9-1-03
340-150-0140	2-14-03	Amend	3-1-03	340-220-0040	7-23-03	Amend	9-1-03
340-150-0150	2-14-03	Amend	3-1-03	340-220-0050	7-23-03	Amend	9-1-03
340-150-0152	2-14-03	Adopt	3-1-03	340-230-0010	2-6-03	Amend	3-1-03
340-150-0156	2-14-03	Adopt	3-1-03	340-230-0020	2-6-03	Amend	3-1-03
340-150-0160	2-14-03	Amend	3-1-03	340-230-0030	2-6-03	Amend	3-1-03
340-150-0163	2-14-03	Amend	3-1-03	340-230-0120	2-6-03	Amend	3-1-03
340-150-0166	2-14-03	Amend	3-1-03	340-230-0300	2-6-03	Amend	3-1-03
340-150-0167	2-14-03	Adopt	3-1-03	340-230-0310	2-6-03	Amend	3-1-03
340-150-0168	2-14-03	Adopt	3-1-03	340-230-0320	2-6-03	Amend	3-1-03
340-150-0180	2-14-03	Adopt	3-1-03	340-230-0330	2-6-03	Amend	3-1-03
340-150-0200	2-14-03	Adopt	3-1-03	340-230-0340	2-6-03	Amend	3-1-03
340-150-0250	2-14-03	Adopt	3-1-03	340-230-0350	2-6-03	Amend	3-1-03
340-150-0300	2-14-03	Adopt	3-1-03	340-230-0360	2-6-03	Repeal	3-1-03
340-150-0302	2-14-03	Adopt	3-1-03	340-230-0365	2-6-03	Adopt	3-1-03
340-150-0310	2-14-03	Adopt	3-1-03	340-230-0370	2-6-03	Adopt	3-1-03
340-150-0320	2-14-03	Adopt	3-1-03	340-230-0373	2-6-03	Adopt	3-1-03
340-150-0325	2-14-03	Adopt	3-1-03	340-230-0375	2-6-03	Adopt	3-1-03
340-150-0350	2-14-03	Adopt	3-1-03	340-230-0377	2-6-03	Adopt	3-1-03
340-150-0352	2-14-03	Adopt	3-1-03	340-230-0380	2-6-03	Adopt	3-1-03
340-150-0354	2-14-03	Adopt	3-1-03	340-230-0383	2-6-03	Adopt	3-1-03
340-150-0360	2-14-03	Adopt	3-1-03	340-230-0385	2-6-03	Adopt	3-1-03
340-150-0400	2-14-03	Adopt	3-1-03	340-230-0387	2-6-03	Adopt	3-1-03

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340-230-0390	2-6-03	Adopt	3-1-03	345-021-0090	9-3-03	Amend	10-1-03
340-230-0395	2-6-03	Adopt	3-1-03	345-022-0000	9-3-03	Amend	10-1-03
340-238-0040	2-6-03	Amend	3-1-03	345-022-0022	9-3-03	Amend	10-1-03
340-238-0050	2-6-03	Amend	3-1-03	345-022-0030	9-3-03	Amend	10-1-03
340-238-0060	2-6-03	Amend	3-1-03	345-022-0040	9-3-03	Amend	10-1-03
340-244-0200	2-6-03	Amend	3-1-03	345-022-0080	9-3-03	Amend	10-1-03
340-244-0210	2-6-03	Amend	3-1-03	345-024-0550	9-3-03	Amend	10-1-03
340-244-0220	2-6-03	Amend	3-1-03	345-024-0560	9-3-03	Amend	10-1-03
340-244-0230	2-6-03	Amend	3-1-03	345-024-0590	9-3-03	Amend	10-1-03
340-248-0010	12-23-02	Amend	2-1-03	345-024-0600	9-3-03	Amend	10-1-03
340-248-0010	6-21-03	Amend	7-1-03	345-024-0620	9-3-03	Amend	10-1-03
340-248-0100	12-23-02	Amend	2-1-03	345-024-0630	9-3-03	Amend	10-1-03
340-248-0100	6-21-03	Amend	7-1-03	345-024-0680	9-3-03	Adopt	10-1-03
340-248-0120	12-23-02	Amend	2-1-03	345-026-0080	9-3-03	Amend	10-1-03
340-248-0120	6-21-03	Amend	7-1-03	345-026-0390	12-3-02	Amend	1-1-03
340-248-0130	12-23-02	Amend	2-1-03	345-026-0390	9-3-03	Amend	10-1-03
340-248-0130	6-21-03	Amend	7-1-03	345-027-0023	9-3-03	Amend	10-1-03
340-248-0140	12-23-02	Amend	2-1-03	345-027-0060	9-3-03	Amend	10-1-03
340-248-0140	6-21-03	Amend	7-1-03	345-027-0070	9-3-03	Amend	10-1-03
340-248-0150	12-23-02	Amend	2-1-03	345-027-0110	9-3-03	Amend	10-1-03
340-248-0150	6-21-03	Amend	7-1-03	350-060-0020	8-1-03	Amend	8-1-03
340-248-0160	6-21-03	Amend	7-1-03	350-060-0040	8-1-03	Amend	8-1-03
340-248-0180	12-23-02	Amend	2-1-03	350-060-0042	8-1-03	Adopt	8-1-03
340-248-0180	6-21-03	Amend	7-1-03	350-060-0045	8-1-03	Adopt	8-1-03
340-248-0205	12-23-02	Amend	2-1-03	350-060-0050	8-1-03	Amend	8-1-03
340-248-0205	6-21-03	Amend	7-1-03	350-060-0055	8-1-03	Adopt	8-1-03
340-248-0210	12-23-02	Amend	2-1-03	350-060-0060	8-1-03	Amend	8-1-03
340-248-0210	6-21-03	Amend	7-1-03	350-060-0070	8-1-03	Amend	8-1-03
340-248-0220	12-23-02	Amend	2-1-03	350-060-0075	8-1-03	Adopt	8-1-03
340-248-0220	6-21-03	Amend	7-1-03	350-060-0080	8-1-03	Amend	8-1-03
340-248-0240	12-23-02	Amend	2-1-03	350-060-0090	8-1-03	Amend	8-1-03
340-248-0240	6-21-03	Amend	7-1-03	350-060-0100	8-1-03	Amend	8-1-03
340-248-0250	12-23-02	Amend	2-1-03	350-060-0120	8-1-03	Amend	8-1-03
340-248-0250	6-21-03	Amend	7-1-03	350-060-0130	8-1-03	Amend	8-1-03
340-248-0260	12-23-02	Amend	2-1-03	350-060-0140	8-1-03	Repeal	8-1-03
340-248-0260	6-21-03	Amend	7-1-03	350-060-0150	8-1-03	Amend	8-1-03
340-248-0270	12-23-02	Amend	2-1-03	350-060-0160	8-1-03	Amend	8-1-03
340-248-0270	6-21-03	Amend	7-1-03	350-060-0170	8-1-03	Amend	8-1-03
340-248-0275	12-23-02	Amend	2-1-03	350-060-0180	8-1-03	Amend	8-1-03
340-248-0275	6-21-03	Amend	7-1-03	350-060-0190	8-1-03	Amend	8-1-03
340-248-0280	12-23-02	Amend	2-1-03	350-060-0200	8-1-03	Amend	8-1-03
340-248-0280	6-21-03	Amend	7-1-03	350-060-0205	8-1-03	Adopt	8-1-03
340-248-0290	12-23-02	Amend	2-1-03	350-060-0210	8-1-03	Amend	8-1-03
340-248-0290	6-21-03	Amend	7-1-03	350-060-0220	8-1-03	Amend	8-1-03
345-001-0010	9-3-03	Amend	10-1-03	350-060-0240	8-1-03	Adopt	8-1-03
345-001-0090	9-3-03	Amend	10-1-03	350-070-0000	8-1-03	Amend	8-1-03
345-015-0085	9-3-03	Amend	10-1-03	350-070-0020	8-1-03	Amend	8-1-03
345-015-0110	9-3-03	Amend	10-1-03	350-070-0040	8-1-03	Amend	8-1-03
345-015-0190	9-3-03	Amend	10-1-03	350-070-0042	8-1-03	Adopt	8-1-03
345-015-0310	9-3-03	Amend	10-1-03	350-070-0045	8-1-03	Adopt	8-1-03
345-015-0320	9-3-03	Amend	10-1-03	350-070-0047	8-1-03	Adopt	8-1-03
345-015-0350	9-3-03	Amend	10-1-03	350-070-0050	8-1-03	Amend	8-1-03
345-015-0360	9-3-03	Amend	10-1-03	350-070-0060	8-1-03	Amend	8-1-03
345-020-0011	9-3-03	Amend	10-1-03	350-070-0070	8-1-03	Amend	8-1-03
345-021-0000	9-3-03	Amend	10-1-03	350-070-0080	8-1-03	Amend	8-1-03
345-021-0010	9-3-03	Amend	10-1-03	350-070-0085	8-1-03	Adopt	8-1-03

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350-070-0100	8-1-03	Repeal	8-1-03	410-120-1200	2-1-03	Amend	3-1-03
350-070-0110	8-1-03	Amend	8-1-03	410-120-1200	3-1-03	Amend	4-1-03
350-070-0120	8-1-03	Amend	8-1-03	410-120-1200	3-14-03	Amend(T)	4-1-03
350-070-0130	8-1-03	Amend	8-1-03	410-120-1200	7-1-03	Amend(T)	8-1-03
350-070-0140	8-1-03	Amend	8-1-03	410-120-1200	9-1-03	Amend	10-1-03
350-070-0150	8-1-03	Amend	8-1-03	410-120-1200(T)	7-1-03	Suspend	8-1-03
350-070-0160	8-1-03	Amend	8-1-03	410-120-1210	7-1-03	Adopt	8-1-03
350-070-0170	8-1-03	Amend	8-1-03	410-120-1210	9-1-03	Adopt	10-1-03
350-070-0180	8-1-03	Repeal	8-1-03	410-120-1230	1-1-03	Adopt	2-1-03
350-070-0190	8-1-03	Amend	8-1-03	410-120-1230	10-1-03	Amend	11-1-03
350-070-0200	8-1-03	Amend	8-1-03	410-120-1235	2-1-03	Adopt	3-1-03
350-070-0210	8-1-03	Amend	8-1-03	410-120-1235	10-1-03	Repeal	11-1-03
350-070-0220	8-1-03	Amend	8-1-03	410-120-1260	10-1-03	Amend	10-1-03
350-070-0225	8-1-03	Adopt	8-1-03	410-120-1280	1-1-03	Amend	2-1-03
350-070-0230	8-1-03	Amend	8-1-03	410-120-1280	2-1-03	Amend	3-1-03
350-070-0240	8-1-03	Adopt	8-1-03	410-120-1280	10-1-03	Amend	10-1-03
410-001-0030	11-22-02	Adopt	1-1-03	410-120-1320	10-1-03	Amend	10-1-03
410-001-0100	3-21-03	Adopt(T)	5-1-03	410-120-1340	2-1-03	Amend	3-1-03
410-001-0100	8-22-03	Adopt	10-1-03	410-120-1340	10-1-03	Amend	10-1-03
410-001-0110	3-21-03	Adopt(T)	5-1-03	410-120-1360	4-1-03	Amend	5-1-03
410-001-0110	8-22-03	Adopt	10-1-03	410-120-1520	4-1-03	Amend	5-1-03
410-001-0120	3-21-03	Adopt(T)	5-1-03	410-120-1540	4-1-03	Amend	5-1-03
410-001-0120	8-22-03	Adopt	10-1-03	410-120-1560	4-1-03	Amend	5-1-03
410-001-0130	3-21-03	Adopt(T)	5-1-03	410-120-1570	4-1-03	Adopt	5-1-03
410-001-0130	8-22-03	Adopt	10-1-03	410-120-1580	4-1-03	Amend	5-1-03
410-001-0140	3-21-03	Adopt(T)	5-1-03	410-120-1580	10-1-03	Amend	11-1-03
410-001-0140	8-22-03	Adopt	10-1-03	410-120-1600	4-1-03	Amend	5-1-03
410-001-0150	3-21-03	Adopt(T)	5-1-03	410-120-1600	10-1-03	Amend	11-1-03
410-001-0150	8-22-03	Adopt	10-1-03	410-120-1620	4-1-03	Re-number	5-1-03
410-001-0160	3-21-03	Adopt(T)	5-1-03	410-120-1640	4-1-03	Amend	5-1-03
410-001-0160	8-22-03	Adopt	10-1-03	410-120-1660	4-1-03	Amend	5-1-03
410-001-0170	3-21-03	Adopt(T)	5-1-03	410-120-1680	4-1-03	Amend	5-1-03
410-001-0170	8-22-03	Adopt	10-1-03	410-120-1685	4-1-03	Adopt	5-1-03
410-001-0180	3-21-03	Adopt(T)	5-1-03	410-120-1870	10-1-03	Amend	10-1-03
410-001-0180	8-22-03	Adopt	10-1-03	410-120-1875	5-1-03	Amend	6-1-03
410-001-0190	3-21-03	Adopt(T)	5-1-03	410-120-1875	10-1-03	Amend	10-1-03
410-001-0190	8-22-03	Adopt	10-1-03	410-120-1920	10-1-03	Amend	10-1-03
410-001-0200	3-21-03	Adopt(T)	5-1-03	410-121-0000	2-1-03	Amend	3-1-03
410-001-0200	8-22-03	Adopt	10-1-03	410-121-0030	4-1-03	Amend	5-1-03
410-014-0000	4-1-03	Adopt	5-1-03	410-121-0030	5-1-03	Amend	6-1-03
410-014-0010	4-1-03	Adopt	5-1-03	410-121-0030	7-1-03	Adopt	8-1-03
410-014-0020	4-1-03	Adopt	5-1-03	410-121-0030	10-1-03	Amend	10-1-03
410-014-0030	4-1-03	Adopt	5-1-03	410-121-0030	10-1-03	Amend(T)	10-1-03
410-014-0040	4-1-03	Adopt	5-1-03	410-121-0040	4-1-03	Amend	5-1-03
410-014-0050	4-1-03	Adopt	5-1-03	410-121-0040	6-1-03	Amend	7-1-03
410-014-0060	4-1-03	Adopt	5-1-03	410-121-0040	7-1-03	Amend(T)	7-1-03
410-014-0070	4-1-03	Adopt	5-1-03	410-121-0040	8-1-03	Amend	9-1-03
410-120-0000	2-1-03	Amend	3-1-03	410-121-0060	4-1-03	Amend	5-1-03
410-120-0000	10-1-03	Amend	10-1-03	410-121-0061	6-1-03	Amend	7-1-03
410-120-0250	10-1-03	Adopt	10-1-03	410-121-0140	3-1-03	Amend	4-1-03
410-120-1160	10-1-03	Amend	10-1-03	410-121-0140	4-1-03	Amend(T)	4-1-03
410-120-1190	2-1-03	Adopt	3-1-03	410-121-0140	4-15-03	Amend(T)	5-1-03
410-120-1195	4-1-03	Adopt(T)	5-1-03	410-121-0140	6-1-03	Amend(T)	7-1-03
410-120-1195	6-30-03	Adopt	8-1-03	410-121-0140	8-1-03	Amend	9-1-03
410-120-1195	7-1-03	Amend(T)	8-1-03	410-121-0140	10-1-03	Amend	10-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-121-0140	11-1-03	Amend(T)	11-1-03	410-122-0300	4-1-03	Amend	5-1-03
410-121-0140(T)	4-1-03	Suspend	5-1-03	410-122-0320	4-1-03	Amend	5-1-03
410-121-0140(T)	4-15-03	Suspend	5-1-03	410-122-0340	4-1-03	Amend	5-1-03
410-121-0140(T)	6-1-03	Suspend	7-1-03	410-122-0360	4-1-03	Amend	5-1-03
410-121-0146	1-1-03	Amend	2-1-03	410-122-0365	4-1-03	Amend	5-1-03
410-121-0150	6-1-03	Amend	7-1-03	410-122-0370	4-1-03	Repeal	5-1-03
410-121-0150	7-1-03	Amend(T)	7-1-03	410-122-0375	4-1-03	Amend	5-1-03
410-121-0150	8-1-03	Amend	9-1-03	410-122-0420	4-1-03	Amend	5-1-03
410-121-0153	2-1-03	Adopt	3-1-03	410-122-0460	4-1-03	Repeal	5-1-03
410-121-0153	3-1-03	Repeal	4-1-03	410-122-0470	4-1-03	Amend	5-1-03
410-121-0154	1-1-03	Adopt	2-1-03	410-122-0500	4-1-03	Amend	5-1-03
410-121-0155	6-1-03	Amend	7-1-03	410-122-0510	4-1-03	Amend	5-1-03
410-121-0155	10-1-03	Amend	10-1-03	410-122-0525	4-1-03	Amend	5-1-03
410-121-0157	2-14-03	Amend(T)	3-1-03	410-122-0540	4-1-03	Amend	5-1-03
410-121-0157	5-9-03	Amend	6-1-03	410-122-0560	4-1-03	Amend	5-1-03
410-121-0157	5-15-03	Amend(T)	6-1-03	410-122-0580	4-1-03	Amend	5-1-03
410-121-0157	7-7-03	Amend	8-1-03	410-122-0600	4-1-03	Amend	5-1-03
410-121-0157	10-1-03	Amend	11-1-03	410-122-0620	4-1-03	Amend	5-1-03
410-121-0157(T)	2-14-03	Suspend	3-1-03	410-122-0625	4-1-03	Amend	5-1-03
410-121-0160	4-15-03	Amend(T)	5-1-03	410-122-0630	4-1-03	Amend	5-1-03
410-121-0160	10-1-03	Amend	10-1-03	410-122-0630	10-1-03	Amend	11-1-03
410-121-0190	4-1-03	Amend	5-1-03	410-122-0660	4-1-03	Amend	5-1-03
410-121-0190	6-1-03	Amend	7-1-03	410-122-0665	4-1-03	Repeal	5-1-03
410-121-0190	10-1-03	Amend	10-1-03	410-122-0670	4-1-03	Repeal	5-1-03
410-121-0200	4-1-03	Amend	5-1-03	410-122-0675	4-1-03	Repeal	5-1-03
410-121-0200	6-1-03	Amend	7-1-03	410-122-0678	4-1-03	Amend	5-1-03
410-121-0220	6-1-03	Amend	7-1-03	410-122-0680	4-1-03	Amend	5-1-03
410-121-0300	12-1-02	Amend(T)	1-1-03	410-122-0701	2-1-03	Adopt	3-1-03
410-121-0300	2-28-03	Amend	4-1-03	410-122-0701	3-1-03	Repeal	4-1-03
410-121-0300	3-1-03	Amend(T)	4-1-03	410-122-0720	4-1-03	Adopt	5-1-03
410-121-0300	5-29-03	Amend	7-1-03	410-123-1000	10-1-03	Amend	10-1-03
410-121-0300	8-5-03	Amend	9-1-03	410-123-1040	10-1-03	Amend	10-1-03
410-121-0300	8-15-03	Amend(T)	9-1-03	410-123-1085	1-1-03	Adopt	2-1-03
410-121-0300	10-1-03	Amend	11-1-03	410-123-1085	2-1-03	Amend	3-1-03
410-121-0300(T)	12-1-02	Suspend	1-1-03	410-123-1085	10-1-03	Amend	10-1-03
410-121-0300(T)	2-28-03	Repeal	4-1-03	410-123-1220	2-1-03	Amend	3-1-03
410-121-0320	2-14-03	Amend(T)	3-1-03	410-123-1220	10-1-03	Amend	10-1-03
410-121-0320	8-5-03	Amend	9-1-03	410-123-1235	10-1-03	Repeal	10-1-03
410-121-0320(T)	2-14-03	Suspend	3-1-03	410-123-1240	1-1-03	Amend	2-1-03
410-122-0020	12-24-02	Amend(T)	2-1-03	410-123-1240	10-1-03	Amend	10-1-03
410-122-0020	5-1-03	Amend	6-1-03	410-123-1260	2-1-03	Amend	3-1-03
410-122-0030	5-1-03	Amend	6-1-03	410-123-1260	10-1-03	Amend	10-1-03
410-122-0030	10-1-03	Amend	11-1-03	410-123-1280	2-1-03	Repeal	3-1-03
410-122-0180	4-1-03	Amend	5-1-03	410-123-1290	2-1-03	Repeal	3-1-03
410-122-0190	4-1-03	Amend	5-1-03	410-123-1300	2-1-03	Repeal	3-1-03
410-122-0200	4-1-03	Amend	5-1-03	410-123-1310	2-1-03	Repeal	3-1-03
410-122-0202	4-1-03	Amend	5-1-03	410-123-1320	2-1-03	Repeal	3-1-03
410-122-0203	4-1-03	Amend	5-1-03	410-123-1330	2-1-03	Repeal	3-1-03
410-122-0203	10-1-03	Amend	11-1-03	410-123-1340	2-1-03	Repeal	3-1-03
410-122-0205	4-1-03	Amend	5-1-03	410-123-1360	2-1-03	Repeal	3-1-03
410-122-0207	4-1-03	Amend	5-1-03	410-123-1380	2-1-03	Repeal	3-1-03
410-122-0208	4-1-03	Amend	5-1-03	410-123-1400	2-1-03	Repeal	3-1-03
410-122-0208	10-1-03	Amend	11-1-03	410-123-1420	2-1-03	Repeal	3-1-03
410-122-0209	4-1-03	Amend	5-1-03	410-123-1440	2-1-03	Repeal	3-1-03
410-122-0210	4-1-03	Amend	5-1-03	410-123-1460	2-1-03	Repeal	3-1-03
410-122-0240	4-1-03	Amend	5-1-03	410-123-1480	2-1-03	Repeal	3-1-03

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410-123-1500	2-1-03	Repeal	3-1-03	410-130-0240	10-1-03	Amend	10-1-03
410-123-1620	10-1-03	Amend	10-1-03	410-130-0250	4-1-03	Amend	5-1-03
410-123-1640	10-1-03	Amend	10-1-03	410-130-0250	10-1-03	Repeal	10-1-03
410-124-0000	2-1-03	Amend	3-1-03	410-130-0260	10-1-03	Repeal	10-1-03
410-124-0020	2-1-03	Amend	3-1-03	410-130-0280	10-1-03	Repeal	10-1-03
410-124-0040	2-1-03	Amend	3-1-03	410-130-0300	10-1-03	Repeal	10-1-03
410-124-0140	2-1-03	Amend	3-1-03	410-130-0370	10-1-03	Repeal	10-1-03
410-124-0160	2-1-03	Amend	3-1-03	410-130-0400	4-1-03	Amend	5-1-03
410-125-0050	1-1-03	Adopt	2-1-03	410-130-0400	10-1-03	Repeal	10-1-03
410-125-0055	2-1-03	Adopt	3-1-03	410-130-0420	10-1-03	Repeal	10-1-03
410-125-0080	4-1-03	Amend	5-1-03	410-130-0440	10-1-03	Repeal	10-1-03
410-125-0115	10-1-03	Amend	10-1-03	410-130-0460	10-1-03	Repeal	10-1-03
410-125-0121	10-1-03	Amend	10-1-03	410-130-0480	10-1-03	Repeal	10-1-03
410-125-0141	3-1-03	Amend	4-1-03	410-130-0500	10-1-03	Repeal	10-1-03
410-125-0141	3-10-03	Amend(T)	4-1-03	410-130-0530	10-1-03	Repeal	10-1-03
410-125-0141	5-1-03	Amend	6-1-03	410-130-0540	4-1-03	Amend	5-1-03
410-125-0181	3-1-03	Amend	4-1-03	410-130-0540	10-1-03	Repeal	10-1-03
410-125-0181	10-1-03	Amend	10-1-03	410-130-0562	4-1-03	Amend	5-1-03
410-125-0195	3-1-03	Amend	4-1-03	410-130-0562	10-1-03	Amend	10-1-03
410-125-0195	3-10-03	Amend(T)	4-1-03	410-130-0580	4-1-03	Amend	5-1-03
410-125-0195	5-1-03	Amend	6-1-03	410-130-0580	10-1-03	Amend	10-1-03
410-125-0680	1-1-03	Amend	2-1-03	410-130-0585	4-1-03	Amend	5-1-03
410-125-0700	1-1-03	Amend	2-1-03	410-130-0585	10-1-03	Amend	10-1-03
410-127-0000	2-1-03	Amend	3-1-03	410-130-0587	10-1-03	Adopt	11-1-03
410-127-0020	2-1-03	Amend	3-1-03	410-130-0590	10-1-03	Repeal	10-1-03
410-127-0050	1-1-03	Adopt	2-1-03	410-130-0660	4-1-03	Amend	5-1-03
410-127-0055	2-1-03	Adopt	3-1-03	410-130-0660	10-1-03	Repeal	10-1-03
410-127-0060	10-1-03	Amend	11-1-03	410-130-0680	4-1-03	Amend	5-1-03
410-127-0080	2-1-03	Amend	3-1-03	410-130-0680	10-1-03	Amend	10-1-03
410-127-0120	1-1-03	Amend	2-1-03	410-130-0700	4-1-03	Amend	5-1-03
410-129-0065	10-1-03	Amend	10-1-03	410-130-0700	10-1-03	Amend	10-1-03
410-129-0120	1-1-03	Amend	2-1-03	410-130-0760	4-1-03	Amend	5-1-03
410-129-0140	1-1-03	Amend	2-1-03	410-130-0760	10-1-03	Repeal	10-1-03
410-129-0190	1-1-03	Adopt	2-1-03	410-130-0780	4-1-03	Amend	5-1-03
410-129-0195	2-1-03	Adopt	3-1-03	410-130-0780	10-1-03	Repeal	10-1-03
410-129-0200	4-1-03	Amend	5-1-03	410-130-0800	4-1-03	Amend	5-1-03
410-129-0220	10-1-03	Amend	10-1-03	410-130-0800	10-1-03	Am. & Ren.	10-1-03
410-129-0240	4-1-03	Amend	5-1-03	410-130-0900	10-1-03	Repeal	10-1-03
410-129-0260	2-1-03	Amend	3-1-03	410-130-0920	10-1-03	Repeal	10-1-03
410-129-0260	4-1-03	Amend	5-1-03	410-130-0940	4-1-03	Amend	5-1-03
410-130-0010	1-1-03	Amend	2-1-03	410-130-0940	10-1-03	Repeal	10-1-03
410-130-0040	1-1-03	Amend	2-1-03	410-130-0960	1-1-03	Adopt	2-1-03
410-130-0080	10-1-03	Am. & Ren.	10-1-03	410-130-0960	10-1-03	Am. & Ren.	10-1-03
410-130-0100	4-1-03	Amend	5-1-03	410-130-0965	2-1-03	Adopt	3-1-03
410-130-0100	10-1-03	Am. & Ren.	10-1-03	410-130-0965	10-1-03	Repeal	10-1-03
410-130-0145	10-1-03	Repeal	10-1-03	410-131-0120	10-1-03	Amend	10-1-03
410-130-0150	10-1-03	Repeal	10-1-03	410-131-0220	1-1-03	Amend	2-1-03
410-130-0160	4-1-03	Amend	5-1-03	410-131-0240	1-1-03	Amend	2-1-03
410-130-0160	10-1-03	Amend	10-1-03	410-131-0270	1-1-03	Adopt	2-1-03
410-130-0180	4-1-03	Amend	5-1-03	410-131-0275	2-1-03	Adopt	3-1-03
410-130-0180	10-1-03	Amend	10-1-03	410-131-0280	10-1-03	Amend	10-1-03
410-130-0190	10-1-03	Amend	10-1-03	410-132-0050	1-1-03	Adopt	2-1-03
410-130-0200	4-1-03	Amend	5-1-03	410-132-0055	2-1-03	Adopt	3-1-03
410-130-0200	10-1-03	Amend	10-1-03	410-132-0140	1-1-03	Amend	2-1-03
410-130-0220	10-1-03	Amend	10-1-03	410-132-0180	4-1-03	Amend	5-1-03
410-130-0240	4-1-03	Amend	5-1-03	410-133-0000	4-1-03	Amend	5-1-03

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410-133-0040	4-1-03	Amend	5-1-03	410-141-0280	10-1-03	Amend	10-1-03
410-133-0040	9-1-03	Amend	9-1-03	410-141-0300	8-1-03	Amend	9-1-03
410-133-0080	4-1-03	Amend	5-1-03	410-141-0320	10-1-03	Amend	10-1-03
410-133-0080	9-1-03	Amend	9-1-03	410-141-0340	10-1-03	Amend	10-1-03
410-133-0100	9-1-03	Amend	9-1-03	410-141-0405	10-1-03	Amend	10-1-03
410-133-0120	4-1-03	Amend	5-1-03	410-141-0407	10-1-03	Amend	10-1-03
410-133-0120	9-1-03	Amend	9-1-03	410-141-0410	10-1-03	Amend	10-1-03
410-133-0140	9-1-03	Amend	9-1-03	410-141-0420	2-1-03	Amend	3-1-03
410-133-0200	4-1-03	Amend	5-1-03	410-141-0420	10-1-03	Amend	10-1-03
410-133-0200	9-1-03	Amend	9-1-03	410-141-0480	1-1-03	Amend	2-1-03
410-133-0220	4-1-03	Amend	5-1-03	410-141-0480	10-1-03	Amend	10-1-03
410-133-0220	9-1-03	Amend	9-1-03	410-141-0480	10-2-03	Amend(T)	11-1-03
410-133-0240	4-1-03	Repeal	5-1-03	410-141-0500	1-1-03	Amend	2-1-03
410-133-0280	9-1-03	Amend	9-1-03	410-141-0500	2-1-03	Amend	3-1-03
410-133-0300	4-1-03	Amend	5-1-03	410-141-0500	4-15-03	Amend	5-1-03
410-133-0300	9-1-03	Amend	9-1-03	410-141-0500	10-1-03	Amend	10-1-03
410-133-0320	4-1-03	Amend	5-1-03	410-141-0500	10-2-03	Amend(T)	11-1-03
410-133-0320	9-1-03	Amend	9-1-03	410-141-0520	1-1-03	Amend	2-1-03
410-136-0045	2-1-03	Adopt	3-1-03	410-141-0520	3-1-03	Amend	4-1-03
410-136-0300	4-1-03	Amend	5-1-03	410-141-0520	4-1-03	Amend	5-1-03
410-136-0340	10-1-03	Amend	10-1-03	410-141-0520	10-2-03	Amend(T)	11-1-03
410-136-0360	10-1-03	Amend	10-1-03	410-141-0520(T)	1-1-03	Repeal	2-1-03
410-136-0380	10-1-03	Repeal	10-1-03	410-141-0660	10-1-03	Amend	10-1-03
410-140-0060	1-1-03	Amend	2-1-03	410-141-0680	10-1-03	Amend	10-1-03
410-140-0110	1-1-03	Adopt	2-1-03	410-141-0700	10-1-03	Amend	10-1-03
410-140-0115	2-1-03	Adopt	3-1-03	410-141-0720	10-1-03	Amend	10-1-03
410-140-0200	10-1-03	Amend	10-1-03	410-141-0740	10-1-03	Repeal	10-1-03
410-141-0000	2-1-03	Amend	3-1-03	410-141-0760	10-1-03	Amend	10-1-03
410-141-0000	3-1-03	Amend	4-1-03	410-141-0780	10-1-03	Amend	10-1-03
410-141-0000	8-1-03	Amend	9-1-03	410-141-0800	10-1-03	Amend	10-1-03
410-141-0020	10-1-03	Amend	10-1-03	410-141-0820	10-1-03	Amend	10-1-03
410-141-0060	10-1-03	Amend	10-1-03	410-141-0840	10-1-03	Amend	10-1-03
410-141-0065	10-1-03	Amend	10-1-03	410-141-0860	10-1-03	Amend	10-1-03
410-141-0070	10-1-03	Adopt	10-1-03	410-142-0080	2-1-03	Amend	3-1-03
410-141-0080	2-1-03	Amend	3-1-03	410-142-0100	2-1-03	Amend	3-1-03
410-141-0080	4-1-03	Amend	5-1-03	410-142-0200	2-1-03	Amend	3-1-03
410-141-0080	10-1-03	Amend	10-1-03	410-142-0240	2-1-03	Amend	3-1-03
410-141-0085	10-1-03	Amend	10-1-03	410-142-0300	2-28-03	Amend	4-1-03
410-141-0110	10-1-03	Amend	10-1-03	410-142-0300	10-10-03	Amend(T)	11-1-03
410-141-0115	10-1-03	Amend	10-1-03	410-142-0320	2-1-03	Amend	3-1-03
410-141-0120	8-1-03	Amend	9-1-03	410-146-0022	10-1-03	Adopt	10-1-03
410-141-0140	10-1-03	Amend	10-1-03	410-146-0040	10-1-03	Amend	10-1-03
410-141-0160	8-1-03	Amend	9-1-03	410-146-0060	10-1-03	Amend	10-1-03
410-141-0180	10-1-03	Amend	10-1-03	410-146-0075	1-1-03	Adopt	2-1-03
410-141-0200	8-1-03	Amend	9-1-03	410-146-0075	2-1-03	Amend	3-1-03
410-141-0220	10-1-03	Amend	10-1-03	410-146-0075	10-1-03	Amend	10-1-03
410-141-0260	4-1-03	Amend	5-1-03	410-146-0080	2-1-03	Amend	3-1-03
410-141-0260	8-1-03	Amend	9-1-03	410-146-0080	10-1-03	Amend	10-1-03
410-141-0261	4-1-03	Amend	5-1-03	410-146-0120	10-1-03	Amend	10-1-03
410-141-0261	8-1-03	Amend	9-1-03	410-146-0130	10-1-03	Amend	10-1-03
410-141-0262	8-1-03	Amend	9-1-03	410-146-0260	10-1-03	Repeal	10-1-03
410-141-0263	8-1-03	Amend	9-1-03	410-146-0320	1-1-03	Amend	2-1-03
410-141-0264	4-1-03	Amend	5-1-03	410-146-0320	10-1-03	Repeal	10-1-03
410-141-0264	8-1-03	Amend	9-1-03	410-147-0020	10-1-03	Amend	10-1-03
410-141-0265	8-1-03	Amend	9-1-03	410-147-0040	10-1-03	Amend	10-1-03

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-147-0060	10-1-03	Amend	10-1-03	410-150-0100	4-1-03	Amend	5-1-03
410-147-0080	10-1-03	Amend	10-1-03	410-150-0100	10-1-03	Repeal	10-1-03
410-147-0085	1-1-03	Adopt	2-1-03	410-150-0120	4-1-03	Amend	5-1-03
410-147-0085	2-1-03	Amend	3-1-03	410-150-0120	10-1-03	Amend	10-1-03
410-147-0085	10-1-03	Amend	10-1-03	410-150-0140	10-1-03	Repeal	10-1-03
410-147-0120	2-1-03	Amend	3-1-03	410-150-0160	4-1-03	Amend	5-1-03
410-147-0120	10-1-03	Amend	10-1-03	410-150-0180	10-1-03	Repeal	10-1-03
410-147-0160	10-1-03	Amend	10-1-03	410-150-0200	4-1-03	Amend	5-1-03
410-147-0200	10-1-03	Amend	10-1-03	410-150-0200	10-1-03	Amend	10-1-03
410-147-0280	10-1-03	Amend	10-1-03	410-150-0220	4-1-03	Amend	5-1-03
410-147-0300	10-1-03	Repeal	10-1-03	410-150-0220	10-1-03	Repeal	10-1-03
410-147-0320	10-1-03	Amend	10-1-03	410-150-0260	4-1-03	Amend	5-1-03
410-147-0340	10-1-03	Amend	10-1-03	410-150-0260	10-1-03	Repeal	10-1-03
410-147-0360	10-1-03	Amend	10-1-03	410-150-0280	4-1-03	Amend	5-1-03
410-147-0380	10-1-03	Amend	10-1-03	410-150-0280	10-1-03	Repeal	10-1-03
410-147-0400	10-1-03	Amend	10-1-03	410-150-0300	10-1-03	Amend	10-1-03
410-147-0420	10-1-03	Amend	10-1-03	411-015-0000	12-6-02	Amend(T)	1-1-03
410-147-0460	10-1-03	Amend	10-1-03	411-015-0000	6-4-03	Amend	7-1-03
410-147-0480	10-1-03	Amend	10-1-03	411-015-0005	12-6-02	Amend(T)	1-1-03
410-147-0500	10-1-03	Amend	10-1-03	411-015-0005	6-4-03	Amend	7-1-03
410-147-0580	10-1-03	Repeal	10-1-03	411-015-0010	12-6-02	Amend(T)	1-1-03
410-147-0600	1-1-03	Amend	2-1-03	411-015-0010	6-4-03	Amend	7-1-03
410-147-0600	10-1-03	Repeal	10-1-03	411-015-0015	12-6-02	Amend(T)	1-1-03
410-147-0610	10-1-03	Adopt	10-1-03	411-015-0015	2-1-03	Amend	2-1-03
410-148-0000	10-1-03	Amend	10-1-03	411-015-0015	2-18-03	Amend(T)	3-1-03
410-148-0020	4-1-03	Amend	5-1-03	411-015-0015	3-12-03	Amend(T)	4-1-03
410-148-0020	10-1-03	Amend	10-1-03	411-015-0015	3-20-03	Amend(T)	5-1-03
410-148-0040	4-1-03	Amend	5-1-03	411-015-0015	6-4-03	Amend	7-1-03
410-148-0060	4-1-03	Amend	5-1-03	411-015-0015(T)	2-18-03	Suspend	3-1-03
410-148-0060	10-1-03	Amend	10-1-03	411-015-0015(T)	3-12-03	Suspend	4-1-03
410-148-0090	2-1-03	Adopt	3-1-03	411-015-0015(T)	3-20-03	Suspend	5-1-03
410-148-0095	1-1-03	Adopt	2-1-03	411-015-0100	12-6-02	Amend(T)	1-1-03
410-148-0100	2-1-03	Amend	3-1-03	411-015-0100	2-1-03	Amend	2-1-03
410-148-0100	4-1-03	Amend	5-1-03	411-015-0100	6-4-03	Amend	7-1-03
410-148-0120	10-1-03	Amend	10-1-03	411-030-0020	7-31-03	Amend	9-1-03
410-148-0140	10-1-03	Amend	10-1-03	411-030-0020	9-30-03	Amend	11-1-03
410-148-0160	10-1-03	Amend	10-1-03	411-030-0033	7-31-03	Amend	9-1-03
410-148-0180	1-1-03	Amend	2-1-03	411-030-0033	9-30-03	Amend	11-1-03
410-148-0180	10-1-03	Repeal	10-1-03	411-030-0040	2-1-03	Amend(T)	3-1-03
410-148-0200	1-1-03	Amend	2-1-03	411-030-0040	7-31-03	Amend	9-1-03
410-148-0200	10-1-03	Repeal	10-1-03	411-030-0040	9-30-03	Amend	11-1-03
410-148-0220	10-1-03	Repeal	10-1-03	411-030-0050	7-31-03	Amend	9-1-03
410-148-0260	4-1-03	Amend	5-1-03	411-030-0050	9-30-03	Amend	11-1-03
410-148-0260	10-1-03	Amend	10-1-03	411-030-0060	7-31-03	Amend	9-1-03
410-148-0280	4-1-03	Amend	5-1-03	411-030-0060	9-30-03	Amend	11-1-03
410-148-0300	4-1-03	Amend	5-1-03	411-030-0065	9-30-03	Adopt	11-1-03
410-148-0300	10-1-03	Amend	10-1-03	411-030-0070	7-31-03	Amend	9-1-03
410-149-0000	2-1-03	Adopt	3-1-03	411-030-0070	9-30-03	Amend	11-1-03
410-149-0020	2-1-03	Adopt	3-1-03	411-030-0080	2-1-03	Amend(T)	3-1-03
410-149-0040	2-1-03	Adopt	3-1-03	411-030-0080	7-31-03	Amend	9-1-03
410-149-0060	2-1-03	Adopt	3-1-03	411-030-0080	9-30-03	Amend	11-1-03
410-149-0080	2-1-03	Adopt	3-1-03	411-030-0090	7-31-03	Amend	9-1-03
410-150-0000	10-1-03	Amend	10-1-03	411-032-0000	5-2-03	Amend	6-1-03
410-150-0040	4-1-03	Amend	5-1-03	411-032-0001	5-2-03	Amend	6-1-03
410-150-0080	4-1-03	Amend	5-1-03	411-032-0005	5-2-03	Amend	6-1-03
410-150-0080	10-1-03	Amend	10-1-03	411-032-0010	5-2-03	Amend	6-1-03

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411-032-0020	5-2-03	Amend	6-1-03	413-010-0717	1-7-03	Amend	2-1-03
411-032-0044	5-2-03	Amend	6-1-03	413-010-0718	1-7-03	Amend	2-1-03
411-200-0010	7-1-03	Amend	8-1-03	413-010-0719	1-7-03	Amend	2-1-03
411-300-0100	12-28-02	Adopt	2-1-03	413-010-0720	1-7-03	Amend	2-1-03
411-300-0110	12-28-02	Adopt	2-1-03	413-010-0721	1-7-03	Amend	2-1-03
411-300-0120	12-28-02	Adopt	2-1-03	413-010-0722	1-7-03	Amend	2-1-03
411-300-0130	12-28-02	Adopt	2-1-03	413-010-0723	1-7-03	Amend	2-1-03
411-300-0140	12-28-02	Adopt	2-1-03	413-010-0732	1-7-03	Amend	2-1-03
411-300-0150	12-28-02	Adopt	2-1-03	413-010-0735	1-7-03	Amend	2-1-03
411-300-0160	12-28-02	Adopt	2-1-03	413-010-0738	1-7-03	Amend	2-1-03
411-300-0170	12-28-02	Adopt	2-1-03	413-010-0740	1-7-03	Amend	2-1-03
411-300-0180	12-28-02	Adopt	2-1-03	413-010-0743	1-7-03	Amend	2-1-03
411-300-0190	12-28-02	Adopt	2-1-03	413-010-0745	1-7-03	Amend	2-1-03
411-300-0200	12-28-02	Adopt	2-1-03	413-010-0746	1-7-03	Amend	2-1-03
411-300-0210	12-28-02	Adopt	2-1-03	413-010-0750	1-7-03	Amend	2-1-03
411-300-0220	12-28-02	Adopt	2-1-03	413-015-0100	7-1-03	Adopt	8-1-03
411-310-0010	4-1-03	Adopt	5-1-03	413-015-0105	7-1-03	Adopt	8-1-03
411-310-0020	4-1-03	Adopt	5-1-03	413-015-0110	7-1-03	Adopt	8-1-03
411-310-0030	4-1-03	Adopt	5-1-03	413-015-0115	7-1-03	Adopt	8-1-03
411-310-0040	4-1-03	Adopt	5-1-03	413-015-0120	7-1-03	Adopt	8-1-03
411-310-0050	4-1-03	Adopt	5-1-03	413-015-0125	7-1-03	Adopt	8-1-03
411-310-0060	4-1-03	Adopt	5-1-03	413-015-0200	7-1-03	Adopt	8-1-03
411-310-0070	4-1-03	Adopt	5-1-03	413-015-0205	7-1-03	Adopt	8-1-03
411-315-0010	4-1-03	Adopt	5-1-03	413-015-0210	7-1-03	Adopt	8-1-03
411-315-0020	4-1-03	Adopt	5-1-03	413-015-0215	7-1-03	Adopt	8-1-03
411-315-0030	4-1-03	Adopt	5-1-03	413-015-0220	7-1-03	Adopt	8-1-03
411-315-0040	4-1-03	Adopt	5-1-03	413-015-0225	7-1-03	Adopt	8-1-03
411-315-0050	4-1-03	Adopt	5-1-03	413-015-0300	7-1-03	Adopt	8-1-03
411-315-0060	4-1-03	Adopt	5-1-03	413-015-0305	7-1-03	Adopt	8-1-03
411-315-0070	4-1-03	Adopt	5-1-03	413-015-0310	7-1-03	Adopt	8-1-03
411-315-0080	4-1-03	Adopt	5-1-03	413-015-0400	7-1-03	Adopt	8-1-03
411-315-0090	4-1-03	Adopt	5-1-03	413-015-0405	7-1-03	Adopt	8-1-03
411-315-0100	4-1-03	Adopt	5-1-03	413-015-0410	7-1-03	Adopt	8-1-03
411-999-0010	3-11-03	Adopt(T)	4-1-03	413-015-0500	7-1-03	Adopt	8-1-03
411-999-0010	4-25-03	Amend(T)	6-1-03	413-015-0505	7-1-03	Adopt	8-1-03
411-999-0010(T)	4-25-03	Suspend	6-1-03	413-015-0510	7-1-03	Adopt	8-1-03
411-999-0011	3-11-03	Adopt(T)	4-1-03	413-015-0600	7-1-03	Adopt	8-1-03
411-999-0011	4-25-03	Amend(T)	6-1-03	413-015-0605	7-1-03	Adopt	8-1-03
411-999-0011(T)	4-25-03	Suspend	6-1-03	413-015-0610	7-1-03	Adopt	8-1-03
411-999-0012	3-11-03	Adopt(T)	4-1-03	413-015-0615	7-1-03	Adopt	8-1-03
411-999-0013	3-11-03	Adopt(T)	4-1-03	413-015-0700	7-1-03	Adopt	8-1-03
411-999-0013	4-25-03	Amend(T)	6-1-03	413-015-0705	7-1-03	Adopt	8-1-03
411-999-0013(T)	4-25-03	Suspend	6-1-03	413-015-0710	7-1-03	Adopt	8-1-03
411-999-0014	3-11-03	Adopt(T)	4-1-03	413-015-0715	7-1-03	Adopt	8-1-03
411-999-0014	4-25-03	Amend(T)	6-1-03	413-015-0720	7-1-03	Adopt	8-1-03
411-999-0014(T)	4-25-03	Suspend	6-1-03	413-015-0725	7-1-03	Adopt	8-1-03
411-999-0015	3-11-03	Adopt(T)	4-1-03	413-015-0730	7-1-03	Adopt	8-1-03
411-999-0015	4-25-03	Amend(T)	6-1-03	413-015-0735	7-1-03	Adopt	8-1-03
411-999-0015(T)	4-25-03	Suspend	6-1-03	413-015-0740	7-1-03	Adopt	8-1-03
411-999-0020	5-15-03	Adopt(T)	5-1-03	413-015-0800	7-1-03	Adopt	8-1-03
413-010-0700	1-7-03	Amend	2-1-03	413-015-0900	7-1-03	Adopt	8-1-03
413-010-0705	1-7-03	Amend	2-1-03	413-015-0905	7-1-03	Adopt	8-1-03
413-010-0712	1-7-03	Amend	2-1-03	413-015-1000	7-1-03	Adopt	8-1-03
413-010-0714	1-7-03	Amend	2-1-03	413-020-0000	1-7-03	Amend	2-1-03
413-010-0715	1-7-03	Amend	2-1-03	413-020-0005	1-7-03	Amend	2-1-03

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413-020-0020	1-7-03	Amend	2-1-03	413-040-0010	10-1-03	Amend	11-1-03
413-020-0040	1-7-03	Amend	2-1-03	413-040-0015	10-1-03	Renumber	11-1-03
413-020-0050	1-7-03	Amend	2-1-03	413-040-0017	10-1-03	Adopt	11-1-03
413-020-0100	1-9-03	Amend	2-1-03	413-040-0025	10-1-03	Renumber	11-1-03
413-020-0110	1-9-03	Amend	2-1-03	413-040-0027	10-1-03	Adopt	11-1-03
413-020-0120	1-9-03	Amend	2-1-03	413-040-0031	10-1-03	Adopt	11-1-03
413-020-0130	1-9-03	Amend	2-1-03	413-040-0035	10-1-03	Renumber	11-1-03
413-020-0140	1-9-03	Amend	2-1-03	413-040-0040	10-1-03	Renumber	11-1-03
413-020-0150	1-9-03	Amend	2-1-03	413-040-0042	10-1-03	Adopt	11-1-03
413-020-0160	1-9-03	Amend	2-1-03	413-040-0045	10-1-03	Renumber	11-1-03
413-020-0170	1-9-03	Amend	2-1-03	413-040-0047	10-1-03	Adopt	11-1-03
413-020-0200	1-7-03	Amend	2-1-03	413-040-0052	10-1-03	Adopt	11-1-03
413-020-0210	1-7-03	Amend	2-1-03	413-040-0071	10-1-03	Adopt	11-1-03
413-020-0220	1-7-03	Amend	2-1-03	413-040-0100	5-22-03	Amend	7-1-03
413-020-0230	1-7-03	Amend	2-1-03	413-040-0110	5-22-03	Amend	7-1-03
413-020-0240	1-7-03	Amend	2-1-03	413-040-0120	5-22-03	Repeal	7-1-03
413-020-0250	1-7-03	Amend	2-1-03	413-040-0130	5-22-03	Amend	7-1-03
413-020-0260	1-7-03	Amend	2-1-03	413-040-0135	5-22-03	Adopt	7-1-03
413-020-0270	1-7-03	Amend	2-1-03	413-040-0140	5-22-03	Amend	7-1-03
413-020-0275	1-23-03	Adopt(T)	3-1-03	413-040-0145	5-22-03	Amend	7-1-03
413-020-0275	3-19-03	Adopt	5-1-03	413-040-0150	5-22-03	Amend	7-1-03
413-020-0275	7-1-03	Repeal	8-1-03	413-040-0155	5-22-03	Adopt	7-1-03
413-020-0280	1-23-03	Adopt(T)	3-1-03	413-040-0157	5-22-03	Adopt	7-1-03
413-020-0285	1-23-03	Adopt(T)	3-1-03	413-040-0159	5-22-03	Adopt	7-1-03
413-020-0285	3-19-03	Adopt	5-1-03	413-040-0160	5-22-03	Repeal	7-1-03
413-020-0285	7-1-03	Repeal	8-1-03	413-040-0170	5-22-03	Amend	7-1-03
413-020-0300	7-1-03	Repeal	8-1-03	413-040-0400	1-7-03	Amend	2-1-03
413-020-0310	7-1-03	Repeal	8-1-03	413-040-0410	1-7-03	Amend	2-1-03
413-020-0320	7-1-03	Repeal	8-1-03	413-040-0420	1-7-03	Amend	2-1-03
413-020-0330	7-1-03	Repeal	8-1-03	413-040-0430	1-7-03	Amend	2-1-03
413-020-0335	1-23-03	Amend(T)	3-1-03	413-040-0440	1-7-03	Amend	2-1-03
413-020-0335	7-1-03	Repeal	8-1-03	413-040-0450	1-7-03	Amend	2-1-03
413-020-0335(T)	1-23-03	Suspend	3-1-03	413-050-0000	1-7-03	Amend	2-1-03
413-020-0340	7-1-03	Repeal	8-1-03	413-050-0005	1-7-03	Adopt	2-1-03
413-020-0345	1-23-03	Adopt(T)	3-1-03	413-050-0010	1-7-03	Amend	2-1-03
413-020-0350	7-1-03	Repeal	8-1-03	413-050-0020	1-7-03	Amend	2-1-03
413-020-0360	7-1-03	Repeal	8-1-03	413-050-0030	1-7-03	Amend	2-1-03
413-020-0380	7-1-03	Repeal	8-1-03	413-050-0040	1-7-03	Amend	2-1-03
413-020-0390	7-1-03	Repeal	8-1-03	413-050-0050	1-7-03	Amend	2-1-03
413-020-0395	1-23-03	Amend(T)	3-1-03	413-050-0200	12-19-02	Amend(T)	2-1-03
413-020-0395(T)	1-23-03	Suspend	3-1-03	413-050-0200	6-18-03	Amend(T)	8-1-03
413-020-0400	7-1-03	Repeal	8-1-03	413-050-0210	12-19-02	Amend(T)	2-1-03
413-020-0405	7-1-03	Repeal	8-1-03	413-050-0210	6-18-03	Amend(T)	8-1-03
413-020-0410	7-1-03	Repeal	8-1-03	413-050-0220	12-19-02	Amend(T)	2-1-03
413-020-0420	7-1-03	Repeal	8-1-03	413-050-0220	6-18-03	Amend(T)	8-1-03
413-020-0430	7-1-03	Repeal	8-1-03	413-050-0230	12-19-02	Amend(T)	2-1-03
413-030-0100	7-1-03	Repeal	8-1-03	413-050-0230	6-18-03	Amend(T)	8-1-03
413-030-0110	7-1-03	Repeal	8-1-03	413-050-0240	12-19-02	Amend(T)	2-1-03
413-030-0120	7-1-03	Repeal	8-1-03	413-050-0240	6-18-03	Amend(T)	8-1-03
413-030-0130	7-1-03	Repeal	8-1-03	413-050-0250	12-19-02	Amend(T)	2-1-03
413-030-0200	1-7-03	Amend	2-1-03	413-050-0250	6-18-03	Amend(T)	8-1-03
413-030-0205	1-7-03	Adopt	2-1-03	413-050-0260	12-19-02	Amend(T)	2-1-03
413-030-0210	1-7-03	Amend	2-1-03	413-050-0260	6-18-03	Amend(T)	8-1-03
413-030-0220	1-7-03	Amend	2-1-03	413-050-0261	12-19-02	Adopt(T)	2-1-03
413-040-0000	10-1-03	Amend	11-1-03	413-050-0270	12-19-02	Amend(T)	2-1-03

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413-050-0280	12-19-02	Amend(T)	2-1-03	413-080-0200	1-9-03	Amend	2-1-03
413-050-0280	6-18-03	Amend(T)	8-1-03	413-080-0205	1-9-03	Adopt	2-1-03
413-050-0290	12-19-02	Amend(T)	2-1-03	413-080-0210	1-9-03	Amend	2-1-03
413-050-0290	6-18-03	Amend(T)	8-1-03	413-080-0240	1-9-03	Amend	2-1-03
413-050-0300	12-19-02	Amend(T)	2-1-03	413-080-0250	1-9-03	Amend	2-1-03
413-050-0300	6-18-03	Amend(T)	8-1-03	413-080-0260	1-9-03	Amend	2-1-03
413-050-0301	12-19-02	Adopt(T)	2-1-03	413-080-0270	1-9-03	Amend	2-1-03
413-050-0430	1-9-03	Amend	2-1-03	413-090-0000	1-7-03	Amend	2-1-03
413-050-0440	1-9-03	Amend	2-1-03	413-090-0005	1-7-03	Amend	2-1-03
413-050-0500	1-7-03	Amend	2-1-03	413-090-0010	1-7-03	Amend	2-1-03
413-050-0510	1-7-03	Amend	2-1-03	413-090-0010	2-1-03	Amend(T)	3-1-03
413-050-0515	1-7-03	Amend	2-1-03	413-090-0010	7-31-03	Amend	9-1-03
413-050-0530	1-7-03	Amend	2-1-03	413-090-0030	1-7-03	Amend	2-1-03
413-050-0535	1-7-03	Amend	2-1-03	413-090-0040	1-7-03	Amend	2-1-03
413-050-0540	1-7-03	Amend	2-1-03	413-090-0050	1-7-03	Amend	2-1-03
413-050-0545	1-7-03	Amend	2-1-03	413-090-0160	2-1-03	Amend(T)	3-1-03
413-050-0550	1-7-03	Amend	2-1-03	413-090-0160	7-31-03	Amend	9-1-03
413-050-0560	1-7-03	Amend	2-1-03	413-090-0300	1-7-03	Amend	2-1-03
413-050-0565	1-7-03	Amend	2-1-03	413-090-0310	1-7-03	Amend	2-1-03
413-050-0575	1-7-03	Amend	2-1-03	413-090-0320	1-7-03	Amend	2-1-03
413-050-0580	1-7-03	Amend	2-1-03	413-090-0330	1-7-03	Amend	2-1-03
413-050-0585	1-7-03	Amend	2-1-03	413-090-0340	1-7-03	Amend	2-1-03
413-070-0900	7-31-03	Amend	9-1-03	413-090-0355	1-7-03	Amend	2-1-03
413-070-0905	1-9-03	Amend	2-1-03	413-090-0365	1-7-03	Amend	2-1-03
413-070-0905	7-31-03	Amend	9-1-03	413-090-0370	1-7-03	Amend	2-1-03
413-070-0910	7-31-03	Amend	9-1-03	413-090-0380	1-7-03	Amend	2-1-03
413-070-0915	1-9-03	Amend	2-1-03	413-090-0400	1-7-03	Amend	2-1-03
413-070-0915	7-31-03	Amend	9-1-03	413-090-0405	1-7-03	Adopt	2-1-03
413-070-0917	7-31-03	Amend	9-1-03	413-090-0410	1-7-03	Amend	2-1-03
413-070-0920	1-9-03	Amend	2-1-03	413-090-0420	1-7-03	Amend	2-1-03
413-070-0920	7-31-03	Amend	9-1-03	413-090-0430	1-7-03	Amend	2-1-03
413-070-0925	7-31-03	Amend	9-1-03	413-100-0030	9-2-03	Amend(T)	10-1-03
413-070-0930	1-9-03	Amend	2-1-03	413-100-0040	9-2-03	Amend(T)	10-1-03
413-070-0930	7-31-03	Amend	9-1-03	413-100-0050	9-2-03	Amend(T)	10-1-03
413-070-0935	7-31-03	Amend	9-1-03	413-100-0070	9-2-03	Amend(T)	10-1-03
413-070-0937	7-31-03	Amend	9-1-03	413-100-0080	9-2-03	Amend(T)	10-1-03
413-070-0940	1-9-03	Amend	2-1-03	413-100-0110	9-2-03	Amend(T)	10-1-03
413-070-0940	7-31-03	Amend	9-1-03	413-100-0130	9-2-03	Amend(T)	10-1-03
413-070-0945	1-9-03	Amend	2-1-03	413-100-0135	9-2-03	Amend(T)	10-1-03
413-070-0945	1-23-03	Amend(T)	3-1-03	413-100-0150	9-2-03	Amend(T)	10-1-03
413-070-0945	7-31-03	Amend	9-1-03	413-100-0160	9-2-03	Amend(T)	10-1-03
413-070-0950	1-9-03	Amend	2-1-03	413-100-0240	9-2-03	Amend(T)	10-1-03
413-070-0950	7-31-03	Amend	9-1-03	413-100-0276	9-2-03	Amend(T)	10-1-03
413-070-0955	7-31-03	Amend	9-1-03	413-100-0290	9-2-03	Amend(T)	10-1-03
413-070-0960	7-31-03	Amend	9-1-03	413-120-0400	3-13-03	Amend	4-1-03
413-070-0965	7-31-03	Amend	9-1-03	413-120-0410	3-13-03	Amend	4-1-03
413-070-0970	7-31-03	Amend	9-1-03	413-120-0420	3-13-03	Amend	4-1-03
413-070-0975	7-31-03	Repeal	9-1-03	413-120-0430	3-13-03	Amend	4-1-03
413-070-0980	1-23-03	Adopt(T)	3-1-03	413-120-0440	3-13-03	Amend	4-1-03
413-070-0980	7-31-03	Adopt	9-1-03	413-120-0450	3-13-03	Amend	4-1-03
413-070-0981	2-1-03	Adopt(T)	3-1-03	413-120-0455	3-13-03	Adopt	4-1-03
413-070-0981	7-31-03	Adopt	9-1-03	413-120-0460	3-13-03	Amend	4-1-03
413-080-0000	1-7-03	Amend	2-1-03	413-120-0470	3-13-03	Amend	4-1-03
413-080-0010	1-7-03	Amend	2-1-03	413-120-0600	10-3-03	Amend	11-1-03
413-080-0020	1-7-03	Amend	2-1-03	413-120-0610	10-3-03	Amend	11-1-03

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413-120-0625	10-3-03	Adopt	11-1-03	416-020-0000	8-20-03	Amend	10-1-03
413-120-0628	10-3-03	Adopt	11-1-03	416-020-0010	8-20-03	Amend	10-1-03
413-120-0630	10-3-03	Amend	11-1-03	416-020-0020	8-20-03	Amend	10-1-03
413-120-0635	10-3-03	Adopt	11-1-03	416-020-0030	8-20-03	Amend	10-1-03
413-120-0640	10-3-03	Repeal	11-1-03	416-020-0040	8-20-03	Amend	10-1-03
413-120-0650	10-3-03	Repeal	11-1-03	416-020-0050	8-20-03	Amend	10-1-03
413-120-0660	10-3-03	Repeal	11-1-03	416-020-0060	8-20-03	Repeal	10-1-03
413-120-0670	10-3-03	Repeal	11-1-03	416-020-0070	8-20-03	Repeal	10-1-03
413-120-0810	10-1-03	Amend	11-1-03	416-020-0080	8-20-03	Repeal	10-1-03
413-120-0820	10-1-03	Amend	11-1-03	416-020-0090	8-20-03	Repeal	10-1-03
413-120-0830	10-1-03	Amend	11-1-03	416-050-0000	8-20-03	Amend	10-1-03
413-130-0120	2-1-03	Amend	3-1-03	416-050-0010	8-20-03	Amend	10-1-03
413-130-0125	2-1-03	Adopt	3-1-03	416-050-0020	8-20-03	Repeal	10-1-03
413-130-0126	2-1-03	Adopt(T)	3-1-03	416-050-0030	8-20-03	Repeal	10-1-03
413-200-0371	12-19-02	Amend(T)	2-1-03	416-160-0000	8-20-03	Repeal	10-1-03
413-200-0371	8-1-03	Amend	9-1-03	416-160-0010	8-20-03	Repeal	10-1-03
414-001-0000	4-27-03	Repeal	6-1-03	416-160-0020	8-20-03	Repeal	10-1-03
414-600-0000	11-24-02	Adopt	1-1-03	416-160-0030	8-20-03	Repeal	10-1-03
414-600-0010	11-24-02	Adopt	1-1-03	416-160-0040	8-20-03	Repeal	10-1-03
414-600-0020	11-24-02	Adopt	1-1-03	416-160-0050	8-20-03	Repeal	10-1-03
414-600-0030	11-24-02	Adopt	1-1-03	416-160-0060	8-20-03	Repeal	10-1-03
414-600-0040	11-24-02	Adopt	1-1-03	416-160-0070	8-20-03	Repeal	10-1-03
414-600-0050	11-24-02	Adopt	1-1-03	416-320-0000	9-23-03	Amend	11-1-03
414-600-0060	11-24-02	Adopt	1-1-03	416-320-0010	9-23-03	Amend	11-1-03
414-600-0070	11-24-02	Adopt	1-1-03	416-320-0020	9-23-03	Amend	11-1-03
414-600-0080	11-24-02	Adopt	1-1-03	416-320-0030	9-23-03	Amend	11-1-03
414-600-0090	11-24-02	Adopt	1-1-03	416-370-0000	8-20-03	Repeal	10-1-03
414-600-0100	11-24-02	Adopt	1-1-03	416-370-0010	8-20-03	Repeal	10-1-03
415-020-0000	7-1-03	Amend	7-1-03	416-370-0020	8-20-03	Repeal	10-1-03
415-020-0005	7-1-03	Amend	7-1-03	416-370-0030	8-20-03	Repeal	10-1-03
415-020-0010	7-1-03	Amend	7-1-03	416-370-0040	8-20-03	Repeal	10-1-03
415-020-0015	7-1-03	Amend	7-1-03	416-370-0050	8-20-03	Repeal	10-1-03
415-020-0020	7-1-03	Amend	7-1-03	416-370-0060	8-20-03	Repeal	10-1-03
415-020-0025	7-1-03	Amend	7-1-03	416-370-0070	8-20-03	Repeal	10-1-03
415-020-0030	7-1-03	Amend	7-1-03	416-370-0080	8-20-03	Repeal	10-1-03
415-020-0035	7-1-03	Amend	7-1-03	416-390-0000	9-23-03	Repeal	11-1-03
415-020-0040	7-1-03	Amend	7-1-03	416-390-0010	9-23-03	Repeal	11-1-03
415-020-0045	7-1-03	Repeal	7-1-03	416-390-0020	9-23-03	Repeal	11-1-03
415-020-0045	9-1-03	Repeal	8-1-03	416-390-0030	9-23-03	Repeal	11-1-03
415-020-0050	7-1-03	Amend	7-1-03	416-390-0040	9-23-03	Repeal	11-1-03
415-020-0053	7-1-03	Adopt	7-1-03	416-390-0050	9-23-03	Repeal	11-1-03
415-020-0054	7-1-03	Adopt	7-1-03	416-390-0060	9-23-03	Repeal	11-1-03
415-020-0055	7-1-03	Repeal	7-1-03	416-390-0070	9-23-03	Repeal	11-1-03
415-020-0055	9-1-03	Repeal	8-1-03	416-390-0080	9-23-03	Repeal	11-1-03
415-020-0060	7-1-03	Amend	7-1-03	416-390-0090	9-23-03	Repeal	11-1-03
415-020-0065	7-1-03	Amend	7-1-03	416-390-0100	9-23-03	Repeal	11-1-03
415-020-0070	7-1-03	Amend	7-1-03	416-390-0110	9-23-03	Repeal	11-1-03
415-020-0075	7-1-03	Amend	7-1-03	416-390-0120	9-23-03	Repeal	11-1-03
415-020-0080	7-1-03	Amend	7-1-03	416-390-0130	9-23-03	Repeal	11-1-03
415-020-0085	7-1-03	Amend	7-1-03	416-390-0140	9-23-03	Repeal	11-1-03
415-051-0015	9-1-03	Amend	8-1-03	416-390-0150	9-23-03	Repeal	11-1-03
415-051-0055	9-1-03	Amend	8-1-03	416-390-0160	9-23-03	Repeal	11-1-03
415-051-0057	9-1-03	Amend	8-1-03	416-390-0170	9-23-03	Repeal	11-1-03
415-051-0060	9-1-03	Amend	8-1-03	416-390-0180	9-23-03	Repeal	11-1-03
416-001-0000	8-20-03	Amend	10-1-03	416-390-0190	9-23-03	Repeal	11-1-03

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416-390-0210	9-23-03	Repeal	11-1-03	436-035-0270	2-1-03	Amend	2-1-03
416-390-0220	9-23-03	Repeal	11-1-03	436-035-0280	2-1-03	Amend	2-1-03
416-390-0230	9-23-03	Repeal	11-1-03	436-035-0300	2-1-03	Amend	2-1-03
416-390-0240	9-23-03	Repeal	11-1-03	436-035-0310	2-1-03	Amend	2-1-03
416-390-0250	9-23-03	Repeal	11-1-03	436-035-0320	2-1-03	Amend	2-1-03
416-390-0260	9-23-03	Repeal	11-1-03	436-035-0330	2-1-03	Amend	2-1-03
416-390-0270	9-23-03	Repeal	11-1-03	436-035-0340	2-1-03	Amend	2-1-03
416-390-0290	9-23-03	Repeal	11-1-03	436-035-0360	2-1-03	Amend	2-1-03
416-390-0300	9-23-03	Repeal	11-1-03	436-035-0370	2-1-03	Amend	2-1-03
416-390-0310	9-23-03	Repeal	11-1-03	436-035-0390	2-1-03	Amend	2-1-03
416-390-0320	9-23-03	Repeal	11-1-03	436-035-0395	2-1-03	Amend	2-1-03
416-390-0330	9-23-03	Repeal	11-1-03	436-035-0420	2-1-03	Amend	2-1-03
416-390-0340	9-23-03	Repeal	11-1-03	436-035-0430	2-1-03	Amend	2-1-03
416-390-0360	9-23-03	Repeal	11-1-03	436-035-0440	2-1-03	Amend	2-1-03
416-430-0050	1-16-03	Amend	3-1-03	436-035-0500	1-15-03	Amend(T)	2-1-03
416-800-0000	9-23-03	Amend	11-1-03	436-035-0500	2-1-03	Amend	2-1-03
416-800-0010	9-23-03	Amend	11-1-03	436-035-0500	4-15-03	Amend(T)	5-1-03
416-800-0020	9-23-03	Amend	11-1-03	436-035-0500	7-15-03	Amend(T)	8-1-03
416-800-0050	9-23-03	Amend	11-1-03	436-050-0003	9-15-03	Amend	10-1-03
416-800-0060	9-23-03	Amend	11-1-03	436-050-0060	4-1-03	Amend	5-1-03
436-009-0004	7-1-03	Amend	7-1-03	436-050-0150	7-18-03	Amend(T)	9-1-03
436-009-0005	7-1-03	Amend	7-1-03	436-050-0160	7-18-03	Amend(T)	9-1-03
436-009-0008	7-1-03	Amend	7-1-03	436-050-0165	7-18-03	Adopt(T)	9-1-03
436-009-0010	7-1-03	Amend	7-1-03	436-050-0410	9-15-03	Amend	10-1-03
436-009-0015	7-1-03	Amend	7-1-03	436-050-0420	9-15-03	Amend	10-1-03
436-009-0020	7-1-03	Amend	7-1-03	436-050-0430	9-15-03	Repeal	10-1-03
436-009-0022	7-1-03	Amend	7-1-03	436-050-0440	9-15-03	Amend	10-1-03
436-009-0030	7-1-03	Amend	7-1-03	436-050-0450	9-15-03	Amend	10-1-03
436-009-0040	7-1-03	Amend	7-1-03	436-050-0460	9-15-03	Amend	10-1-03
436-009-0050	7-1-03	Amend	7-1-03	436-050-0470	9-15-03	Amend	10-1-03
436-009-0060	7-1-03	Amend	7-1-03	436-060-0010	9-2-03	Amend(T)	10-1-03
436-009-0070	7-1-03	Amend	7-1-03	436-060-0010	9-22-03	Amend(T)	11-1-03
436-009-0090	7-1-03	Amend	7-1-03	436-060-0010(T)	9-22-03	Suspend	11-1-03
436-035-0001	2-1-03	Amend	2-1-03	436-060-0019	9-2-03	Amend(T)	10-1-03
436-035-0003	2-1-03	Amend	2-1-03	436-060-0019	9-22-03	Amend(T)	11-1-03
436-035-0005	2-1-03	Amend	2-1-03	436-060-0019(T)	9-22-03	Suspend	11-1-03
436-035-0007	2-1-03	Amend	2-1-03	436-060-0035	9-2-03	Amend(T)	10-1-03
436-035-0010	2-1-03	Amend	2-1-03	436-060-0035	9-22-03	Amend(T)	11-1-03
436-035-0030	2-1-03	Amend	2-1-03	436-060-0035(T)	9-22-03	Suspend	11-1-03
436-035-0040	2-1-03	Amend	2-1-03	436-060-0500	9-2-03	Amend(T)	10-1-03
436-035-0050	2-1-03	Amend	2-1-03	436-060-0500	9-22-03	Amend(T)	11-1-03
436-035-0060	2-1-03	Amend	2-1-03	436-060-0500(T)	9-22-03	Suspend	11-1-03
436-035-0070	2-1-03	Amend	2-1-03	436-105-0003	12-11-02	Amend(T)	1-1-03
436-035-0075	2-1-03	Amend	2-1-03	436-105-0003	6-8-03	Amend	7-1-03
436-035-0080	2-1-03	Amend	2-1-03	436-105-0008	6-8-03	Amend	7-1-03
436-035-0100	2-1-03	Amend	2-1-03	436-105-0500	12-11-02	Amend(T)	1-1-03
436-035-0110	2-1-03	Amend	2-1-03	436-105-0500	6-8-03	Amend	7-1-03
436-035-0150	2-1-03	Amend	2-1-03	436-105-0510	12-11-02	Amend(T)	1-1-03
436-035-0160	2-1-03	Amend	2-1-03	436-105-0510	6-8-03	Amend	7-1-03
436-035-0170	2-1-03	Amend	2-1-03	436-105-0520	6-8-03	Amend	7-1-03
436-035-0190	2-1-03	Amend	2-1-03	436-105-0530	6-8-03	Amend	7-1-03
436-035-0200	2-1-03	Amend	2-1-03	436-160-0001	4-1-03	Adopt	5-1-03
436-035-0220	2-1-03	Amend	2-1-03	436-160-0002	4-1-03	Adopt	5-1-03
436-035-0230	2-1-03	Amend	2-1-03	436-160-0003	4-1-03	Adopt	5-1-03
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436-160-0006	4-1-03	Adopt	5-1-03	437-006-0105	12-1-03	Repeal	7-1-03
436-160-0010	4-1-03	Adopt	5-1-03	437-006-0110	12-1-03	Repeal	7-1-03
436-160-0020	4-1-03	Adopt	5-1-03	437-006-0120	12-1-03	Repeal	7-1-03
436-160-0030	4-1-03	Adopt	5-1-03	437-006-0125	12-1-03	Repeal	7-1-03
436-160-0040	4-1-03	Adopt	5-1-03	437-006-0130	12-1-03	Repeal	7-1-03
436-160-0050	4-1-03	Adopt	5-1-03	437-006-0135	12-1-03	Repeal	7-1-03
436-160-0060	4-1-03	Adopt	5-1-03	437-006-0140	12-1-03	Repeal	7-1-03
436-160-0070	4-1-03	Adopt	5-1-03	437-006-0145	12-1-03	Repeal	7-1-03
436-160-0080	4-1-03	Adopt	5-1-03	437-006-0150	12-1-03	Repeal	7-1-03
436-160-0090	4-1-03	Adopt	5-1-03	437-006-0155	12-1-03	Repeal	7-1-03
436-160-0300	4-1-03	Adopt	5-1-03	437-006-0160	12-1-03	Repeal	7-1-03
436-160-0310	4-1-03	Adopt	5-1-03	437-006-0162	12-1-03	Repeal	7-1-03
436-160-0320	4-1-03	Adopt	5-1-03	437-006-0165	12-1-03	Repeal	7-1-03
436-160-0330	4-1-03	Adopt	5-1-03	437-006-0170	12-1-03	Repeal	7-1-03
436-160-0340	4-1-03	Adopt	5-1-03	437-006-0175	12-1-03	Repeal	7-1-03
436-160-0350	4-1-03	Adopt	5-1-03	437-006-0205	12-1-03	Repeal	7-1-03
436-160-0360	4-1-03	Adopt	5-1-03	437-006-0210	12-1-03	Repeal	7-1-03
437-002-0080	4-21-03	Amend	6-1-03	437-006-0215	12-1-03	Repeal	7-1-03
437-002-0100	4-21-03	Amend	6-1-03	437-006-0220	12-1-03	Repeal	7-1-03
437-002-0107	4-21-03	Amend	6-1-03	437-006-0225	12-1-03	Repeal	7-1-03
437-002-0223	1-30-03	Amend	3-1-03	437-006-0230	12-1-03	Repeal	7-1-03
437-003-0001	1-30-03	Amend	3-1-03	437-006-0235	12-1-03	Repeal	7-1-03
437-003-0001	4-30-03	Amend	3-1-03	437-006-0240	12-1-03	Repeal	7-1-03
437-003-0017	4-30-03	Adopt	3-1-03	437-006-0245	12-1-03	Repeal	7-1-03
437-003-0420	1-30-03	Amend	3-1-03	437-006-0260	12-1-03	Repeal	7-1-03
437-003-0706	4-30-03	Adopt	3-1-03	437-006-0265	12-1-03	Repeal	7-1-03
437-005-0001	5-6-03	Amend	6-1-03	437-006-0270	12-1-03	Repeal	7-1-03
437-006-0001	12-1-03	Repeal	7-1-03	437-006-0275	12-1-03	Repeal	7-1-03
437-006-0003	12-1-03	Repeal	7-1-03	437-006-0280	12-1-03	Repeal	7-1-03
437-006-0004	12-1-03	Repeal	7-1-03	437-006-0285	12-1-03	Repeal	7-1-03
437-006-0005	12-1-03	Repeal	7-1-03	437-006-0290	12-1-03	Repeal	7-1-03
437-006-0007	12-1-03	Repeal	7-1-03	437-006-0295	12-1-03	Repeal	7-1-03
437-006-0008	12-1-03	Repeal	7-1-03	437-006-0300	12-1-03	Repeal	7-1-03
437-006-0015	12-1-03	Repeal	7-1-03	437-006-0310	12-1-03	Repeal	7-1-03
437-006-0020	12-1-03	Repeal	7-1-03	437-006-0350	12-1-03	Repeal	7-1-03
437-006-0023	12-1-03	Repeal	7-1-03	437-006-0355	12-1-03	Repeal	7-1-03
437-006-0025	12-1-03	Repeal	7-1-03	437-006-0360	12-1-03	Repeal	7-1-03
437-006-0028	12-1-03	Repeal	7-1-03	437-006-0365	12-1-03	Repeal	7-1-03
437-006-0030	12-1-03	Repeal	7-1-03	437-006-0370	12-1-03	Repeal	7-1-03
437-006-0035	12-1-03	Repeal	7-1-03	437-006-0375	12-1-03	Repeal	7-1-03
437-006-0040	12-1-03	Repeal	7-1-03	437-006-0380	12-1-03	Repeal	7-1-03
437-006-0045	12-1-03	Repeal	7-1-03	437-006-0400	12-1-03	Repeal	7-1-03
437-006-0050	12-1-03	Repeal	7-1-03	437-006-0405	12-1-03	Repeal	7-1-03
437-006-0055	12-1-03	Repeal	7-1-03	437-006-0410	12-1-03	Repeal	7-1-03
437-006-0060	12-1-03	Repeal	7-1-03	437-006-0415	12-1-03	Repeal	7-1-03
437-006-0065	12-1-03	Repeal	7-1-03	437-006-0420	12-1-03	Repeal	7-1-03
437-006-0068	12-1-03	Repeal	7-1-03	437-006-0425	12-1-03	Repeal	7-1-03
437-006-0080	12-1-03	Repeal	7-1-03	437-006-0427	12-1-03	Repeal	7-1-03
437-006-0082	12-1-03	Repeal	7-1-03	437-006-0430	12-1-03	Repeal	7-1-03
437-006-0084	12-1-03	Repeal	7-1-03	437-006-0435	12-1-03	Repeal	7-1-03
437-006-0086	12-1-03	Repeal	7-1-03	437-006-0440	12-1-03	Repeal	7-1-03
437-006-0088	12-1-03	Repeal	7-1-03	437-006-0460	12-1-03	Repeal	7-1-03
437-006-0090	12-1-03	Repeal	7-1-03	437-006-0465	12-1-03	Repeal	7-1-03
437-006-0091	12-1-03	Repeal	7-1-03	437-006-0470	12-1-03	Repeal	7-1-03
437-006-0095	12-1-03	Repeal	7-1-03	437-006-0475	12-1-03	Repeal	7-1-03

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437-006-0485	12-1-03	Repeal	7-1-03	437-007-0410	12-1-03	Adopt	7-1-03
437-006-0490	12-1-03	Repeal	7-1-03	437-007-0415	12-1-03	Adopt	7-1-03
437-006-0495	12-1-03	Repeal	7-1-03	437-007-0500	12-1-03	Adopt	7-1-03
437-006-0500	12-1-03	Repeal	7-1-03	437-007-0505	12-1-03	Adopt	7-1-03
437-006-0505	12-1-03	Repeal	7-1-03	437-007-0510	12-1-03	Adopt	7-1-03
437-006-0510	12-1-03	Repeal	7-1-03	437-007-0515	12-1-03	Adopt	7-1-03
437-006-0515	12-1-03	Repeal	7-1-03	437-007-0520	12-1-03	Adopt	7-1-03
437-006-0530	12-1-03	Repeal	7-1-03	437-007-0525	12-1-03	Adopt	7-1-03
437-006-0535	12-1-03	Repeal	7-1-03	437-007-0530	12-1-03	Adopt	7-1-03
437-006-0540	12-1-03	Repeal	7-1-03	437-007-0535	12-1-03	Adopt	7-1-03
437-006-0545	12-1-03	Repeal	7-1-03	437-007-0540	12-1-03	Adopt	7-1-03
437-006-0550	12-1-03	Repeal	7-1-03	437-007-0545	12-1-03	Adopt	7-1-03
437-006-0555	12-1-03	Repeal	7-1-03	437-007-0550	12-1-03	Adopt	7-1-03
437-006-0565	12-1-03	Repeal	7-1-03	437-007-0555	12-1-03	Adopt	7-1-03
437-006-0570	12-1-03	Repeal	7-1-03	437-007-0560	12-1-03	Adopt	7-1-03
437-006-0575	12-1-03	Repeal	7-1-03	437-007-0565	12-1-03	Adopt	7-1-03
437-006-0580	12-1-03	Repeal	7-1-03	437-007-0570	12-1-03	Adopt	7-1-03
437-006-0585	12-1-03	Repeal	7-1-03	437-007-0575	12-1-03	Adopt	7-1-03
437-006-0590	12-1-03	Repeal	7-1-03	437-007-0580	12-1-03	Adopt	7-1-03
437-007-0001	12-1-03	Adopt	7-1-03	437-007-0600	12-1-03	Adopt	7-1-03
437-007-0002	12-1-03	Adopt	7-1-03	437-007-0605	12-1-03	Adopt	7-1-03
437-007-0003	12-1-03	Adopt	7-1-03	437-007-0610	12-1-03	Adopt	7-1-03
437-007-0004	12-1-03	Adopt	7-1-03	437-007-0615	12-1-03	Adopt	7-1-03
437-007-0010	12-1-03	Adopt	7-1-03	437-007-0620	12-1-03	Adopt	7-1-03
437-007-0025	12-1-03	Adopt	7-1-03	437-007-0625	12-1-03	Adopt	7-1-03
437-007-0100	12-1-03	Adopt	7-1-03	437-007-0630	12-1-03	Adopt	7-1-03
437-007-0105	12-1-03	Adopt	7-1-03	437-007-0635	12-1-03	Adopt	7-1-03
437-007-0110	12-1-03	Adopt	7-1-03	437-007-0640	12-1-03	Adopt	7-1-03
437-007-0125	12-1-03	Adopt	7-1-03	437-007-0645	12-1-03	Adopt	7-1-03
437-007-0130	12-1-03	Adopt	7-1-03	437-007-0650	12-1-03	Adopt	7-1-03
437-007-0135	12-1-03	Adopt	7-1-03	437-007-0655	12-1-03	Adopt	7-1-03
437-007-0140	12-1-03	Adopt	7-1-03	437-007-0660	12-1-03	Adopt	7-1-03
437-007-0145	12-1-03	Adopt	7-1-03	437-007-0665	12-1-03	Adopt	7-1-03
437-007-0200	12-1-03	Adopt	7-1-03	437-007-0670	12-1-03	Adopt	7-1-03
437-007-0205	12-1-03	Adopt	7-1-03	437-007-0675	12-1-03	Adopt	7-1-03
437-007-0210	12-1-03	Adopt	7-1-03	437-007-0680	12-1-03	Adopt	7-1-03
437-007-0215	12-1-03	Adopt	7-1-03	437-007-0685	12-1-03	Adopt	7-1-03
437-007-0220	12-1-03	Adopt	7-1-03	437-007-0690	12-1-03	Adopt	7-1-03
437-007-0225	12-1-03	Adopt	7-1-03	437-007-0700	12-1-03	Adopt	7-1-03
437-007-0230	12-1-03	Adopt	7-1-03	437-007-0705	12-1-03	Adopt	7-1-03
437-007-0235	12-1-03	Adopt	7-1-03	437-007-0710	12-1-03	Adopt	7-1-03
437-007-0240	12-1-03	Adopt	7-1-03	437-007-0715	12-1-03	Adopt	7-1-03
437-007-0245	12-1-03	Adopt	7-1-03	437-007-0720	12-1-03	Adopt	7-1-03
437-007-0300	12-1-03	Adopt	7-1-03	437-007-0725	12-1-03	Adopt	7-1-03
437-007-0305	12-1-03	Adopt	7-1-03	437-007-0730	12-1-03	Adopt	7-1-03
437-007-0310	12-1-03	Adopt	7-1-03	437-007-0735	12-1-03	Adopt	7-1-03
437-007-0315	12-1-03	Adopt	7-1-03	437-007-0740	12-1-03	Adopt	7-1-03
437-007-0320	12-1-03	Adopt	7-1-03	437-007-0745	12-1-03	Adopt	7-1-03
437-007-0325	12-1-03	Adopt	7-1-03	437-007-0750	12-1-03	Adopt	7-1-03
437-007-0330	12-1-03	Adopt	7-1-03	437-007-0755	12-1-03	Adopt	7-1-03
437-007-0335	12-1-03	Adopt	7-1-03	437-007-0760	12-1-03	Adopt	7-1-03
437-007-0340	12-1-03	Adopt	7-1-03	437-007-0765	12-1-03	Adopt	7-1-03
437-007-0345	12-1-03	Adopt	7-1-03	437-007-0770	12-1-03	Adopt	7-1-03
437-007-0350	12-1-03	Adopt	7-1-03	437-007-0775	12-1-03	Adopt	7-1-03
437-007-0400	12-1-03	Adopt	7-1-03	437-007-0780	12-1-03	Adopt	7-1-03

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437-007-0805	12-1-03	Adopt	7-1-03	437-007-1400	12-1-03	Adopt	7-1-03
437-007-0810	12-1-03	Adopt	7-1-03	437-007-1405	12-1-03	Adopt	7-1-03
437-007-0815	12-1-03	Adopt	7-1-03	438-005-0011	5-1-03	Amend	4-1-03
437-007-0820	12-1-03	Adopt	7-1-03	438-005-0015	5-1-03	Amend	4-1-03
437-007-0825	12-1-03	Adopt	7-1-03	438-005-0016	5-1-03	Repeal	4-1-03
437-007-0830	12-1-03	Adopt	7-1-03	438-005-0040	5-1-03	Amend	4-1-03
437-007-0900	12-1-03	Adopt	7-1-03	438-006-0031	5-1-03	Amend	4-1-03
437-007-0905	12-1-03	Adopt	7-1-03	438-006-0036	5-1-03	Amend	4-1-03
437-007-0910	12-1-03	Adopt	7-1-03	438-006-0075	5-1-03	Amend	4-1-03
437-007-0915	12-1-03	Adopt	7-1-03	438-006-0081	5-1-03	Amend	4-1-03
437-007-0920	12-1-03	Adopt	7-1-03	438-006-0091	5-1-03	Amend	4-1-03
437-007-0925	12-1-03	Adopt	7-1-03	438-006-0095	5-1-03	Amend	4-1-03
437-007-0927	12-1-03	Adopt	7-1-03	438-006-0099	5-1-03	Adopt	4-1-03
437-007-0930	12-1-03	Adopt	7-1-03	438-007-0015	5-1-03	Amend	4-1-03
437-007-0935	12-1-03	Adopt	7-1-03	438-007-0018	5-1-03	Amend	4-1-03
437-007-0940	12-1-03	Adopt	7-1-03	438-007-0020	5-1-03	Amend	4-1-03
437-007-0945	12-1-03	Adopt	7-1-03	438-007-0024	5-1-03	Adopt	4-1-03
437-007-0950	12-1-03	Adopt	7-1-03	438-007-0027	5-1-03	Adopt	4-1-03
437-007-1000	12-1-03	Adopt	7-1-03	438-012-0001	9-1-03	Amend	8-1-03
437-007-1005	12-1-03	Adopt	7-1-03	438-012-0018	9-1-03	Amend	8-1-03
437-007-1010	12-1-03	Adopt	7-1-03	438-012-0020	9-1-03	Amend	8-1-03
437-007-1015	12-1-03	Adopt	7-1-03	438-012-0024	9-1-03	Adopt	8-1-03
437-007-1020	12-1-03	Adopt	7-1-03	438-012-0030	9-1-03	Amend	8-1-03
437-007-1025	12-1-03	Adopt	7-1-03	438-012-0035	9-1-03	Amend	8-1-03
437-007-1030	12-1-03	Adopt	7-1-03	438-012-0050	9-1-03	Amend	8-1-03
437-007-1035	12-1-03	Adopt	7-1-03	438-012-0060	9-1-03	Amend	8-1-03
437-007-1040	12-1-03	Adopt	7-1-03	438-012-0061	9-1-03	Amend	8-1-03
437-007-1045	12-1-03	Adopt	7-1-03	438-012-0062	9-1-03	Amend	8-1-03
437-007-1050	12-1-03	Adopt	7-1-03	438-012-0070	9-1-03	Adopt	8-1-03
437-007-1055	12-1-03	Adopt	7-1-03	438-012-0075	9-1-03	Adopt	8-1-03
437-007-1060	12-1-03	Adopt	7-1-03	438-012-0080	9-1-03	Adopt	8-1-03
437-007-1100	12-1-03	Adopt	7-1-03	438-012-0085	9-1-03	Adopt	8-1-03
437-007-1105	12-1-03	Adopt	7-1-03	438-012-0090	9-1-03	Adopt	8-1-03
437-007-1110	12-1-03	Adopt	7-1-03	438-012-0095	9-1-03	Adopt	8-1-03
437-007-1115	12-1-03	Adopt	7-1-03	438-012-0100	9-1-03	Adopt	8-1-03
437-007-1120	12-1-03	Adopt	7-1-03	438-015-0080	9-1-03	Amend	8-1-03
437-007-1125	12-1-03	Adopt	7-1-03	438-022-0005	5-1-03	Adopt	4-1-03
437-007-1130	12-1-03	Adopt	7-1-03	438-022-0010	5-1-03	Adopt	4-1-03
437-007-1135	12-1-03	Adopt	7-1-03	440-001-0000	1-1-04	Amend	9-1-03
437-007-1140	12-1-03	Adopt	7-1-03	440-005-0030	1-1-04	Amend	9-1-03
437-007-1145	12-1-03	Adopt	7-1-03	440-035-0070	5-27-03	Amend	7-1-03
437-007-1150	12-1-03	Adopt	7-1-03	441-505-1110	10-6-03	Adopt	11-1-03
437-007-1155	12-1-03	Adopt	7-1-03	442-004-0010	12-6-02	Amend(T)	1-1-03
437-007-1160	12-1-03	Adopt	7-1-03	442-004-0010	6-16-03	Amend	8-1-03
437-007-1165	12-1-03	Adopt	7-1-03	459-005-0001	7-1-03	Amend(T)	7-1-03
437-007-1200	12-1-03	Adopt	7-1-03	459-005-0058	6-13-03	Adopt	7-1-03
437-007-1205	12-1-03	Adopt	7-1-03	459-005-0060	6-13-03	Adopt	7-1-03
437-007-1391	12-1-03	Adopt	7-1-03	459-005-0180	7-2-03	Adopt	8-1-03
437-007-1392	12-1-03	Adopt	7-1-03	459-005-0320	7-1-03	Amend(T)	7-1-03
437-007-1393	12-1-03	Adopt	7-1-03	459-007-0001	7-1-03	Amend(T)	7-1-03
437-007-1394	12-1-03	Adopt	7-1-03	459-007-0025	7-1-03	Amend(T)	7-1-03
437-007-1395	12-1-03	Adopt	7-1-03	459-007-0040	7-1-03	Amend(T)	7-1-03
437-007-1396	12-1-03	Adopt	7-1-03	459-007-0050	7-1-03	Amend(T)	7-1-03
437-007-1397	12-1-03	Adopt	7-1-03	459-007-0060	7-1-03	Amend(T)	7-1-03
437-007-1398	12-1-03	Adopt	7-1-03	459-007-0110	7-1-03	Amend(T)	7-1-03

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459-007-0900	7-1-03	Amend(T)	7-1-03	461-125-0600	1-1-03	Amend	2-1-03
459-009-0105	7-1-03	Adopt(T)	7-1-03	461-130-0305	4-1-03	Amend	5-1-03
459-009-0350	1-15-03	Adopt	2-1-03	461-130-0315	4-1-03	Amend	5-1-03
459-013-0300	7-1-03	Adopt(T)	7-1-03	461-130-0330	4-1-03	Amend	5-1-03
459-013-0300	7-1-03	Suspend	8-1-03	461-135-0010	2-1-03	Amend	3-1-03
459-015-0030	8-4-03	Amend	9-1-03	461-135-0082	4-1-03	Amend	5-1-03
459-035-0000	11-18-02	Amend	1-1-03	461-135-0301	1-1-03	Adopt(T)	2-1-03
459-035-0001	11-18-02	Amend	1-1-03	461-135-0301	7-1-03	Adopt	8-1-03
459-035-0010	11-18-02	Amend	1-1-03	461-135-0400	4-1-03	Amend	5-1-03
459-035-0020	11-18-02	Amend	1-1-03	461-135-0401	1-1-03	Adopt	2-1-03
459-035-0030	11-18-02	Amend	1-1-03	461-135-0401(T)	1-1-03	Repeal	2-1-03
459-035-0040	11-18-02	Amend	1-1-03	461-135-0405	10-1-03	Amend	11-1-03
459-035-0050	11-18-02	Amend	1-1-03	461-135-0415	4-1-03	Amend	5-1-03
459-035-0070	11-18-02	Amend	1-1-03	461-135-0505	2-7-03	Amend(T)	3-1-03
459-035-0080	11-18-02	Amend	1-1-03	461-135-0505	7-1-03	Amend	8-1-03
459-035-0090	11-18-02	Amend	1-1-03	461-135-0506	6-16-03	Adopt	7-1-03
459-035-0200	11-18-02	Amend	1-1-03	461-135-0530	4-1-03	Amend	5-1-03
459-035-0210	11-18-02	Repeal	1-1-03	461-135-0570	10-1-03	Amend	11-1-03
459-035-0220	11-18-02	Adopt	1-1-03	461-135-0701	12-30-02	Adopt(T)	2-1-03
459-045-0001	7-1-03	Amend(T)	7-1-03	461-135-0701	6-1-03	Adopt	7-1-03
459-045-0040	8-4-03	Amend	9-1-03	461-135-0701(T)	6-1-03	Repeal	7-1-03
459-050-0230	8-4-03	Amend	9-1-03	461-135-0721	1-1-03	Adopt(T)	2-1-03
461-006-0452	1-1-03	Amend	2-1-03	461-135-0721	7-1-03	Adopt	8-1-03
461-025-0310	1-1-03	Amend(T)	2-1-03	461-135-0725	5-1-03	Amend(T)	6-1-03
461-025-0310	7-1-03	Amend	8-1-03	461-135-0725	7-1-03	Amend	8-1-03
461-025-0315	1-1-03	Amend	2-1-03	461-135-0725(T)	7-1-03	Repeal	8-1-03
461-025-0315	1-1-03	Amend(T)	2-1-03	461-135-0730	1-1-03	Amend	2-1-03
461-025-0315	7-1-03	Amend	8-1-03	461-135-0730	1-1-03	Amend(T)	1-1-03
461-101-0010	2-1-03	Amend	3-1-03	461-135-0730(T)	1-1-03	Repeal	2-1-03
461-101-0010	4-1-03	Amend	5-1-03	461-135-0780	6-18-03	Amend(T)	8-1-03
461-110-0110	2-1-03	Amend	3-1-03	461-135-0780	10-1-03	Amend	11-1-03
461-110-0115	1-1-03	Amend	2-1-03	461-135-0832	7-1-03	Amend	8-1-03
461-110-0115	5-1-03	Amend(T)	6-1-03	461-135-0835	7-1-03	Amend	8-1-03
461-110-0115	7-1-03	Amend	8-1-03	461-135-0900	1-1-03	Amend	2-1-03
461-110-0115(T)	7-1-03	Repeal	8-1-03	461-135-0990	2-1-03	Amend	3-1-03
461-110-0370	10-1-03	Amend	11-1-03	461-135-1070	2-1-03	Amend	3-1-03
461-110-0400	10-1-03	Amend	11-1-03	461-135-1100	2-1-03	Amend	3-1-03
461-110-0750	2-1-03	Amend	3-1-03	461-135-1110	2-1-03	Amend	3-1-03
461-115-0450	6-16-03	Amend	7-1-03	461-135-1110	4-1-03	Amend	5-1-03
461-115-0530	2-1-03	Amend	3-1-03	461-135-1110	7-1-03	Amend	8-1-03
461-115-0530	3-1-03	Amend	4-1-03	461-135-1110(T)	4-1-03	Repeal	5-1-03
461-115-0540	7-1-03	Amend	8-1-03	461-135-1120	2-1-03	Amend	3-1-03
461-115-0651	4-1-03	Amend	5-1-03	461-135-1120	7-1-03	Amend	8-1-03
461-115-0705	2-1-03	Amend	3-1-03	461-135-1120	7-1-03	Amend(T)	8-1-03
461-120-0120	1-1-03	Amend	2-1-03	461-135-1120	10-1-03	Amend	11-1-03
461-120-0125	4-1-03	Amend	5-1-03	461-135-1130	2-1-03	Amend	3-1-03
461-120-0125	7-1-03	Amend	8-1-03	461-135-1130	9-15-03	Amend(T)	10-1-03
461-120-0125	10-1-03	Amend	11-1-03	461-135-1180	2-1-03	Adopt	3-1-03
461-120-0210	2-1-03	Amend	3-1-03	461-140-0296	10-1-03	Amend	11-1-03
461-120-0235	10-1-03	Amend	11-1-03	461-145-0025	7-1-03	Amend	8-1-03
461-120-0345	2-1-03	Amend	3-1-03	461-145-0055	10-1-03	Amend	11-1-03
461-120-0345	7-1-03	Amend	8-1-03	461-145-0080	4-1-03	Amend	5-1-03
461-120-0630	4-1-03	Amend	5-1-03	461-145-0080	7-1-03	Amend	8-1-03
461-125-0370	4-11-03	Amend(T)	5-1-03	461-145-0120	10-1-03	Amend	11-1-03
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461-145-0330	10-1-03	Amend	11-1-03	461-160-0010	2-1-03	Amend	3-1-03
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461-145-0540	11-19-02	Amend(T)	1-1-03	461-160-0015	7-1-03	Amend	8-1-03
461-145-0540	5-1-03	Amend	6-1-03	461-160-0040	4-1-03	Amend	5-1-03
461-145-0540	7-1-03	Amend	8-1-03	461-160-0120	7-1-03	Amend	8-1-03
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461-145-0600	10-1-03	Amend	11-1-03	461-160-0160	10-1-03	Amend	11-1-03
461-145-0820	4-1-03	Amend(T)	5-1-03	461-160-0193	4-1-03	Amend	5-1-03
461-145-0820	7-1-03	Amend	8-1-03	461-160-0410	10-1-03	Amend	11-1-03
461-145-0830	4-1-03	Amend(T)	5-1-03	461-160-0420	10-1-03	Amend	11-1-03
461-145-0830	7-1-03	Amend	8-1-03	461-160-0430	10-1-03	Amend	11-1-03
461-145-0830	10-1-03	Amend	11-1-03	461-160-0580	1-1-03	Amend	2-1-03
461-145-0920	10-1-03	Amend	11-1-03	461-160-0600	7-1-03	Amend	8-1-03
461-145-0930	10-1-03	Amend	11-1-03	461-160-0610	7-1-03	Amend	8-1-03
461-150-0047	8-15-03	Adopt	9-1-03	461-160-0620	1-1-03	Amend	2-1-03
461-150-0050	5-1-03	Amend(T)	6-1-03	461-160-0620	7-1-03	Amend	8-1-03
461-150-0050	10-1-03	Amend	11-1-03	461-160-0620	10-1-03	Amend	11-1-03
461-150-0055	2-1-03	Amend	3-1-03	461-160-0700	2-1-03	Amend	3-1-03
461-155-0035	1-1-03	Amend(T)	2-1-03	461-160-0810	1-1-03	Amend	2-1-03
461-155-0035	7-1-03	Amend	8-1-03	461-165-0030	2-1-03	Amend	3-1-03
461-155-0035	10-1-03	Amend(T)	11-1-03	461-165-0030	4-1-03	Amend	5-1-03
461-155-0150	1-1-03	Amend(T)	2-1-03	461-165-0160	4-1-03	Amend	5-1-03
461-155-0150	2-7-03	Amend(T)	3-1-03	461-165-0171	4-1-03	Adopt	5-1-03
461-155-0150	7-1-03	Amend	8-1-03	461-165-0180	1-1-03	Amend	2-1-03
461-155-0150	10-1-03	Amend	11-1-03	461-165-0190	4-1-03	Amend	5-1-03
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461-155-0190	10-1-03	Amend	11-1-03	461-170-0015	1-1-03	Amend(T)	2-1-03
461-155-0225	2-1-03	Amend	3-1-03	461-170-0015	4-1-03	Amend	5-1-03
461-155-0225	2-7-03	Amend(T)	3-1-03	461-170-0015(T)	4-1-03	Repeal	5-1-03
461-155-0225	4-1-03	Amend	5-1-03	461-170-0020	1-1-03	Amend(T)	2-1-03
461-155-0225(T)	4-1-03	Repeal	5-1-03	461-170-0020	4-1-03	Amend	5-1-03
461-155-0235	2-1-03	Amend	3-1-03	461-170-0020	6-16-03	Amend	7-1-03
461-155-0235	3-1-03	Amend(T)	4-1-03	461-170-0020	8-15-03	Amend	9-1-03
461-155-0235	4-1-03	Amend	5-1-03	461-170-0020	10-1-03	Amend	11-1-03
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461-155-0250	4-1-03	Amend	5-1-03	461-170-0030	4-1-03	Amend	5-1-03
461-155-0250	5-1-03	Amend(T)	6-1-03	461-170-0030(T)	4-1-03	Repeal	5-1-03
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461-155-0295	1-1-03	Amend	2-1-03	461-170-0104	8-15-03	Adopt	9-1-03
461-155-0295	1-1-03	Amend(T)	1-1-03	461-175-0010	1-1-03	Amend(T)	2-1-03
461-155-0295	4-1-03	Amend	5-1-03	461-175-0010	7-1-03	Amend	8-1-03
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461-155-0360	2-1-03	Amend	3-1-03	461-175-0220	8-15-03	Amend	9-1-03
461-155-0500	5-1-03	Amend	6-1-03	461-175-0240	8-15-03	Amend	9-1-03
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461-155-0551	5-1-03	Adopt	6-1-03	461-175-0270	8-15-03	Amend	9-1-03
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461-175-0340	10-1-03	Amend	11-1-03	461-200-1360	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0006	8-15-03	Adopt	9-1-03	461-200-1360	10-1-03	Am. & Ren.	11-1-03
461-180-0010	4-1-03	Amend	5-1-03	461-200-1500	3-1-03	Amend	4-1-03
461-180-0030	6-16-03	Amend	7-1-03	461-200-1500	7-1-03	Am. & Ren.(T)	8-1-03
461-180-0030	8-15-03	Amend	9-1-03	461-200-1500	10-1-03	Am. & Ren.	11-1-03
461-180-0070	4-1-03	Amend	5-1-03	461-200-1600	7-1-03	Am. & Ren.(T)	8-1-03
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461-190-0161	9-1-03	Amend(T)	10-1-03	461-200-2060	7-1-03	Am. & Ren.(T)	8-1-03
461-190-0161	10-1-03	Amend	11-1-03	461-200-2060	10-1-03	Am. & Ren.	11-1-03
461-190-0161	10-1-03	Amend(T)	11-1-03	461-200-2080	6-30-03	Adopt	8-1-03
461-190-0197	10-1-03	Adopt	11-1-03	461-200-2080	7-1-03	Am. & Ren.(T)	8-1-03
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461-190-0360	10-1-03	Amend(T)	11-1-03	461-200-2120	7-1-03	Am. & Ren.(T)	8-1-03
461-193-0246	7-1-03	Amend	8-1-03	461-200-2120	10-1-03	Am. & Ren.	11-1-03
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461-195-0521	1-1-03	Amend	2-1-03	461-200-2320	7-1-03	Am. & Ren.(T)	8-1-03
461-195-0521	10-1-03	Amend	11-1-03	461-200-2320	10-1-03	Am. & Ren.	11-1-03
461-195-0541	10-1-03	Amend	11-1-03	461-200-2340	7-1-03	Am. & Ren.(T)	8-1-03
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461-200-3440	10-1-03	Am. & Ren.	11-1-03	461-200-4520	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3460	7-1-03	Am. & Ren.(T)	8-1-03	461-200-4520	10-1-03	Am. & Ren.	11-1-03
461-200-3460	10-1-03	Am. & Ren.	11-1-03	461-200-4540	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3480	7-1-03	Am. & Ren.(T)	8-1-03	461-200-4540	10-1-03	Am. & Ren.	11-1-03
461-200-3480	10-1-03	Am. & Ren.	11-1-03	461-200-4560	6-30-03	Amend	8-1-03
461-200-3490	7-1-03	Am. & Ren.(T)	8-1-03	461-200-4560	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3490	10-1-03	Am. & Ren.	11-1-03	461-200-4560	10-1-03	Am. & Ren.	11-1-03
461-200-3500	7-1-03	Am. & Ren.(T)	8-1-03	461-200-4620	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3500	10-1-03	Am. & Ren.	11-1-03	461-200-4620	10-1-03	Am. & Ren.	11-1-03
461-200-3620	7-1-03	Am. & Ren.(T)	8-1-03	461-200-4640	7-1-03	Am. & Ren.(T)	8-1-03
461-200-3620	10-1-03	Am. & Ren.	11-1-03	461-200-4640	10-1-03	Am. & Ren.	11-1-03
461-200-3640	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5020	3-1-03	Amend	4-1-03
461-200-3640	10-1-03	Am. & Ren.	11-1-03	461-200-5020	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4040	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5020	10-1-03	Am. & Ren.	11-1-03
461-200-4040	10-1-03	Am. & Ren.	11-1-03	461-200-5040	3-1-03	Amend	4-1-03
461-200-4060	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5040	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4060	10-1-03	Am. & Ren.	11-1-03	461-200-5040	10-1-03	Am. & Ren.	11-1-03
461-200-4080	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5060	3-1-03	Amend	4-1-03
461-200-4080	10-1-03	Am. & Ren.	11-1-03	461-200-5060	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4100	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5060	10-1-03	Am. & Ren.	11-1-03
461-200-4100	10-1-03	Am. & Ren.	11-1-03	461-200-5080	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4120	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5080	10-1-03	Am. & Ren.	11-1-03
461-200-4120	10-1-03	Am. & Ren.	11-1-03	461-200-5110	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4130	10-1-03	Am. & Ren.	11-1-03	461-200-5110	10-1-03	Am. & Ren.	11-1-03
461-200-4140	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5120	3-1-03	Amend	4-1-03
461-200-4140	10-1-03	Am. & Ren.	11-1-03	461-200-5120	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4160	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5120	10-1-03	Am. & Ren.	11-1-03
461-200-4160	10-1-03	Am. & Ren.	11-1-03	461-200-5125	3-1-03	Amend	4-1-03
461-200-4180	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5125	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4180	10-1-03	Am. & Ren.	11-1-03	461-200-5125	10-1-03	Am. & Ren.	11-1-03
461-200-4200	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5220	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4200	10-1-03	Am. & Ren.	11-1-03	461-200-5220	10-1-03	Am. & Ren.	11-1-03
461-200-4220	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5240	6-30-03	Amend	8-1-03
461-200-4220	10-1-03	Am. & Ren.	11-1-03	461-200-5240	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4240	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5240	10-1-03	Am. & Ren.	11-1-03
461-200-4240	10-1-03	Am. & Ren.	11-1-03	461-200-5400	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4260	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5400	10-1-03	Am. & Ren.	11-1-03
461-200-4260	10-1-03	Am. & Ren.	11-1-03	461-200-5420	7-1-03	Am. & Ren.(T)	8-1-03
461-200-4280	7-1-03	Am. & Ren.(T)	8-1-03	461-200-5420	10-1-03	Am. & Ren.	11-1-03

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461-200-5520	10-1-03	Am. & Ren.	11-1-03	462-140-0370	1-1-03	Amend	1-1-03
461-200-6020	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0390	10-13-03	Amend	11-1-03
461-200-6020	10-1-03	Am. & Ren.	11-1-03	462-140-0400	4-1-03	Amend(T)	5-1-03
461-200-6025	7-1-03	Am. & Ren.(T)	8-1-03	462-140-0420	4-1-03	Amend(T)	5-1-03
461-200-6025	10-1-03	Am. & Ren.	11-1-03	462-140-0460	4-1-03	Amend(T)	5-1-03
461-200-6040	7-1-03	Am. & Ren.(T)	8-1-03	462-150-0010	1-1-03	Amend	1-1-03
461-200-6040	10-1-03	Am. & Ren.	11-1-03	462-150-0050	1-1-03	Amend	1-1-03
461-200-6100	7-1-03	Am. & Ren.(T)	8-1-03	462-150-0070	1-1-03	Amend	1-1-03
461-200-6100	10-1-03	Am. & Ren.	11-1-03	462-150-0080	1-1-03	Amend	1-1-03
461-200-6110	7-1-03	Am. & Ren.(T)	8-1-03	462-160-0010	1-1-03	Amend	1-1-03
461-200-6110	10-1-03	Am. & Ren.	11-1-03	462-160-0020	1-1-03	Amend	1-1-03
461-200-6120	7-1-03	Am. & Ren.(T)	8-1-03	462-160-0030	1-1-03	Amend	1-1-03
461-200-6120	10-1-03	Am. & Ren.	11-1-03	462-170-0030	4-1-03	Amend(T)	5-1-03
461-200-6220	7-1-03	Am. & Ren.(T)	8-1-03	462-170-0050	4-1-03	Amend(T)	5-1-03
461-200-6220	10-1-03	Am. & Ren.	11-1-03	462-170-0080	4-1-03	Amend(T)	5-1-03
461-200-6240	7-1-03	Am. & Ren.(T)	8-1-03	462-180-0010	4-1-03	Amend(T)	5-1-03
461-200-6240	10-1-03	Am. & Ren.	11-1-03	462-200-0630	4-23-03	Adopt	6-1-03
461-200-6260	7-1-03	Am. & Ren.(T)	8-1-03	462-220-0040	7-1-03	Amend	7-1-03
461-200-6260	10-1-03	Am. & Ren.	11-1-03	462-220-0040	7-1-03	Amend	8-1-03
461-200-6280	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0040	2-9-03	Amend	3-1-03
461-200-6280	10-1-03	Am. & Ren.	11-1-03	471-010-0050	3-29-03	Amend(T)	5-1-03
461-200-7020	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0050	9-21-03	Amend	11-1-03
461-200-7020	10-1-03	Am. & Ren.	11-1-03	471-010-0050(T)	9-21-03	Repeal	11-1-03
461-200-7040	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0054	12-1-02	Amend(T)	1-1-03
461-200-7040	10-1-03	Am. & Ren.	11-1-03	471-010-0054	5-25-03	Amend	7-1-03
461-200-7060	7-1-03	Am. & Ren.(T)	8-1-03	471-010-0054(T)	5-25-03	Repeal	7-1-03
461-200-7060	10-1-03	Am. & Ren.	11-1-03	471-020-0035	2-16-03	Adopt	3-1-03
461-200-7080	7-1-03	Am. & Ren.(T)	8-1-03	471-020-0035	4-27-03	Amend	6-1-03
461-200-7080	10-1-03	Am. & Ren.	11-1-03	471-020-0040	2-16-03	Adopt	3-1-03
461-200-7100	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0015	2-9-03	Amend	3-1-03
461-200-7100	10-1-03	Am. & Ren.	11-1-03	471-030-0030	2-9-03	Amend	3-1-03
461-200-7120	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0036	4-13-03	Amend	5-1-03
461-200-7120	10-1-03	Am. & Ren.	11-1-03	471-030-0050	2-9-03	Amend	3-1-03
461-200-7140	3-1-03	Amend	4-1-03	471-030-0052	7-27-03	Amend	9-1-03
461-200-7140	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0076	2-9-03	Amend	3-1-03
461-200-7140	10-1-03	Am. & Ren.	11-1-03	471-030-0080	11-24-02	Amend	1-1-03
461-200-7160	7-1-03	Am. & Ren.(T)	8-1-03	471-030-0080	7-27-03	Amend	9-1-03
461-200-7160	10-1-03	Am. & Ren.	11-1-03	471-031-0010	2-9-03	Amend	3-1-03
461-200-7180	7-1-03	Am. & Ren.(T)	8-1-03	471-031-0035	2-9-03	Amend	3-1-03
461-200-7180	10-1-03	Am. & Ren.	11-1-03	471-031-0040	2-9-03	Amend	3-1-03
462-110-0010	1-1-03	Amend	1-1-03	471-031-0055	2-9-03	Amend	3-1-03
462-110-0010	4-23-03	Amend	6-1-03	471-031-0075	2-9-03	Amend	3-1-03
462-110-0020	1-1-03	Amend	1-1-03	471-031-0095	2-9-03	Amend	3-1-03
462-110-0030	4-1-03	Amend(T)	5-1-03	471-040-0005	4-27-03	Amend	6-1-03
462-120-0020	1-1-03	Amend	1-1-03	471-040-0021	5-25-03	Amend	7-1-03
462-120-0040	1-1-03	Amend	1-1-03	543-040-0040	12-16-02	Amend(T)	1-1-03
462-120-0050	1-1-03	Amend	1-1-03	543-050-0000	9-1-03	Suspend	10-1-03
462-120-0100	1-1-03	Amend	1-1-03	543-050-0020	9-1-03	Suspend	10-1-03
462-130-0010	1-1-03	Amend	1-1-03	543-050-0030	9-1-03	Suspend	10-1-03
462-130-0050	1-1-03	Amend	1-1-03	543-050-0040	9-1-03	Suspend	10-1-03
462-140-0030	1-1-03	Amend	1-1-03	543-050-0050	9-1-03	Suspend	10-1-03
462-140-0040	1-1-03	Amend	1-1-03	543-060-0000	9-1-03	Adopt(T)	10-1-03
462-140-0100	1-1-03	Amend	1-1-03	543-060-0010	9-1-03	Adopt(T)	10-1-03
462-140-0120	4-1-03	Amend(T)	5-1-03	543-060-0020	9-1-03	Adopt(T)	10-1-03
462-140-0130	1-1-03	Amend	1-1-03	543-060-0030	9-1-03	Adopt(T)	10-1-03

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543-060-0060	9-1-03	Adopt(T)	10-1-03	576-010-0000	7-1-03	Amend	8-1-03
571-020-0005	9-15-03	Repeal	10-1-03	576-020-0010	6-19-03	Amend	8-1-03
571-020-0010	9-15-03	Repeal	10-1-03	576-025-0020	9-18-03	Amend	8-1-03
571-020-0015	9-15-03	Repeal	10-1-03	577-033-0001	9-1-03	Adopt	10-1-03
571-020-0020	9-15-03	Repeal	10-1-03	577-033-0010	9-1-03	Adopt	10-1-03
571-020-0025	9-15-03	Repeal	10-1-03	577-033-0020	9-1-03	Adopt	10-1-03
571-020-0030	9-15-03	Repeal	10-1-03	577-033-0030	9-1-03	Adopt	10-1-03
571-020-0035	9-15-03	Repeal	10-1-03	577-033-0040	9-1-03	Adopt	10-1-03
571-020-0040	9-15-03	Repeal	10-1-03	577-033-0050	9-1-03	Adopt	10-1-03
571-020-0045	9-15-03	Repeal	10-1-03	577-033-0060	9-1-03	Adopt	10-1-03
571-020-0050	9-15-03	Repeal	10-1-03	577-060-0020	7-1-03	Amend	8-1-03
571-020-0060	9-15-03	Repeal	10-1-03	577-070-0005	7-1-03	Amend	8-1-03
571-020-0065	9-15-03	Repeal	10-1-03	577-070-0010	7-1-03	Amend	8-1-03
571-020-0070	9-15-03	Repeal	10-1-03	577-070-0015	7-1-03	Amend	8-1-03
571-020-0075	9-15-03	Repeal	10-1-03	577-070-0020	7-1-03	Amend	8-1-03
571-020-0080	9-15-03	Repeal	10-1-03	577-070-0025	7-1-03	Amend	8-1-03
571-020-0100	9-15-03	Adopt	10-1-03	577-070-0030	7-1-03	Amend	8-1-03
571-020-0110	9-15-03	Adopt	10-1-03	577-070-0035	7-1-03	Amend	8-1-03
571-020-0120	9-15-03	Adopt	10-1-03	577-070-0040	7-1-03	Amend	8-1-03
571-020-0130	9-15-03	Adopt	10-1-03	577-070-0045	7-1-03	Amend	8-1-03
571-020-0140	9-15-03	Adopt	10-1-03	577-070-0050	7-1-03	Amend	8-1-03
571-020-0150	9-15-03	Adopt	10-1-03	578-041-0030	6-11-03	Amend	7-1-03
571-020-0160	9-15-03	Adopt	10-1-03	579-020-0006	7-31-03	Amend	9-1-03
571-020-0170	9-15-03	Adopt	10-1-03	580-010-0035	7-25-03	Amend(T)	9-1-03
571-020-0180	9-15-03	Adopt	10-1-03	580-040-0040	8-4-03	Amend	9-1-03
571-020-0190	9-15-03	Adopt	10-1-03	581-015-0005	3-10-03	Amend	4-1-03
571-020-0200	9-15-03	Adopt	10-1-03	581-015-0016	3-10-03	Amend	4-1-03
571-020-0210	9-15-03	Adopt	10-1-03	581-015-0017	3-10-03	Amend	4-1-03
571-020-0220	9-15-03	Adopt	10-1-03	581-015-0017	4-30-03	Amend	6-1-03
571-020-0230	9-15-03	Adopt	10-1-03	581-015-0035	3-10-03	Amend	4-1-03
571-020-0240	9-15-03	Adopt	10-1-03	581-015-0037	3-10-03	Amend	4-1-03
571-020-0250	9-15-03	Adopt	10-1-03	581-015-0039	3-10-03	Amend	4-1-03
571-060-0005	7-1-03	Amend	8-1-03	581-015-0042	3-10-03	Amend	4-1-03
571-060-0005	7-1-03	Amend	8-1-03	581-015-0044	3-10-03	Amend	4-1-03
573-040-0005	4-16-03	Amend	6-1-03	581-015-0048	3-10-03	Amend	4-1-03
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573-071-0005	4-16-03	Amend	6-1-03	581-015-0051	3-10-03	Amend	4-1-03
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574-032-0070	8-1-03	Amend	9-1-03	581-015-0079	3-10-03	Amend	4-1-03
574-032-0080	8-1-03	Amend	9-1-03	581-015-0080	3-10-03	Amend	4-1-03
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574-032-0120	8-1-03	Amend	9-1-03	581-015-0085	3-10-03	Amend	4-1-03
574-032-0130	8-1-03	Amend	9-1-03	581-015-0086	3-10-03	Amend	4-1-03
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581-015-0097	3-10-03	Adopt	4-1-03	581-015-1052	3-10-03	Adopt	4-1-03
581-015-0099	3-10-03	Amend	4-1-03	581-015-1100	3-10-03	Amend	4-1-03
581-015-0101	3-10-03	Amend	4-1-03	581-015-1105	6-10-03	Amend	7-1-03
581-015-0108	4-30-03	Amend	6-1-03	581-015-1106	6-10-03	Amend	7-1-03
581-015-0109	4-30-03	Amend	6-1-03	581-015-1106	8-14-03	Amend	9-1-03
581-015-0126	3-10-03	Amend	4-1-03	581-015-1107	3-10-03	Repeal	4-1-03
581-015-0131	3-10-03	Amend	4-1-03	581-015-1110	3-10-03	Amend	4-1-03
581-015-0141	4-30-03	Amend	6-1-03	581-020-0341	4-2-03	Amend(T)	5-1-03
581-015-0291	4-30-03	Amend	6-1-03	581-021-0021	5-15-03	Adopt(T)	6-1-03
581-015-0293	4-30-03	Amend	6-1-03	581-021-0021	6-20-03	Amend(T)	8-1-03
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581-015-0551	3-10-03	Amend	4-1-03	581-022-1350	3-14-03	Amend	4-1-03
581-015-0552	3-10-03	Amend	4-1-03	581-022-1730	7-1-03	Amend(T)	8-1-03
581-015-0553	3-10-03	Amend	4-1-03	581-022-1732	7-1-03	Amend(T)	8-1-03
581-015-0555	3-10-03	Amend	4-1-03	581-023-0035	3-10-03	Amend	4-1-03
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581-015-0558	3-10-03	Amend	4-1-03	581-023-0230	6-13-03	Amend	7-1-03
581-015-0559	3-10-03	Amend	4-1-03	581-053-0002	3-4-03	Amend(T)	4-1-03
581-015-0568	3-10-03	Amend	4-1-03	581-053-0002	6-13-03	Amend	7-1-03
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581-015-0705	4-30-03	Amend	6-1-03	583-030-0021	4-16-03	Amend	6-1-03
581-015-0706	4-30-03	Amend	6-1-03	583-030-0025	4-16-03	Amend	6-1-03
581-015-0805	3-10-03	Amend	4-1-03	583-030-0030	4-16-03	Amend	6-1-03
581-015-0811	3-10-03	Amend	4-1-03	583-030-0035	4-16-03	Amend	6-1-03
581-015-0816	3-10-03	Amend	4-1-03	583-030-0036	4-16-03	Amend	6-1-03
581-015-0820	3-10-03	Amend	4-1-03	583-030-0040	4-16-03	Amend	6-1-03
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581-015-0935	3-10-03	Amend	4-1-03	583-030-0046	4-16-03	Amend	6-1-03
581-015-0937	3-10-03	Amend	4-1-03	583-030-0049	4-16-03	Amend	6-1-03
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581-015-0940	4-30-03	Amend	6-1-03	584-017-0150	5-15-03	Amend	6-1-03
581-015-0941	4-30-03	Amend	6-1-03	584-017-0170	1-13-03	Amend	2-1-03
581-015-0945	3-10-03	Amend	4-1-03	584-036-0055	1-13-03	Amend	2-1-03
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581-015-0968	3-10-03	Amend	4-1-03	584-065-0050	5-15-03	Amend	6-1-03
581-015-0968	8-14-03	Amend	9-1-03	584-100-0001	8-25-03	Adopt(T)	10-1-03
581-015-0970	3-10-03	Amend	4-1-03	584-100-0005	8-25-03	Adopt(T)	10-1-03
581-015-0972	3-10-03	Adopt	4-1-03	584-100-0010	8-25-03	Adopt(T)	10-1-03
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584-100-0060	8-25-03	Adopt(T)	10-1-03	603-014-0045	9-12-03	Amend	10-1-03
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584-100-0090	8-25-03	Adopt(T)	10-1-03	603-014-0047	8-4-03	Adopt(T)	9-1-03
584-100-0095	8-25-03	Adopt(T)	10-1-03	603-014-0047	9-12-03	Adopt	10-1-03
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589-002-0200	1-9-03	Amend	2-1-03	603-025-0180	1-1-03	Amend	2-1-03
589-002-0300	1-9-03	Amend	2-1-03	603-025-0190	1-1-03	Amend	2-1-03
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589-002-0500	1-9-03	Amend	2-1-03	603-052-1025	4-18-03	Amend	6-1-03
589-002-0600	1-9-03	Amend	2-1-03	603-052-1150	1-14-03	Adopt	2-1-03
589-002-0700	1-9-03	Amend	2-1-03	603-052-1200	12-10-02	Amend	1-1-03
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589-005-0200	1-9-03	Amend	2-1-03	603-054-0018	1-7-03	Amend	2-1-03
589-005-0300	1-9-03	Amend	2-1-03	603-054-0020	1-7-03	Adopt	2-1-03
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603-077-0105	5-15-03	Amend	6-1-03	603-095-2800	9-24-03	Adopt	11-1-03
603-077-0110	5-15-03	Amend	6-1-03	603-095-2820	9-24-03	Adopt	11-1-03
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603-077-0115	5-15-03	Amend	6-1-03	603-095-2860	9-24-03	Adopt	11-1-03
603-077-0125	5-15-03	Amend	6-1-03	603-095-3000	7-8-03	Adopt	8-1-03
603-077-0131	5-15-03	Amend	6-1-03	603-095-3020	7-8-03	Adopt	8-1-03
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603-077-0137	5-15-03	Amend	6-1-03	603-095-3060	7-8-03	Adopt	8-1-03
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603-077-0180	5-15-03	Amend	6-1-03	603-095-3160	7-8-03	Adopt	8-1-03
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603-095-0540	9-24-03	Amend	11-1-03	622-001-0010	1-16-03	Repeal	2-1-03
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603-095-2060	1-7-03	Adopt	2-1-03	622-020-0144	1-16-03	Amend	2-1-03
603-095-2300	1-7-03	Adopt	2-1-03	622-020-0145	1-16-03	Amend	2-1-03
603-095-2320	1-7-03	Adopt	2-1-03	622-020-0147	1-16-03	Amend	2-1-03
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629-623-0100	1-1-03	Adopt	1-1-03	635-005-0045	11-20-02	Amend(T)	1-1-03
629-623-0200	1-1-03	Adopt	1-1-03	635-005-0045	11-25-02	Amend(T)	1-1-03
629-623-0250	1-1-03	Adopt	1-1-03	635-005-0045	12-6-02	Amend(T)	1-1-03
629-623-0300	1-1-03	Adopt	1-1-03	635-005-0045(T)	12-6-02	Suspend	1-1-03
629-623-0400	1-1-03	Adopt	1-1-03	635-005-0190	3-26-03	Amend	5-1-03
629-623-0450	1-1-03	Adopt	1-1-03	635-006-0001	7-17-03	Amend	9-1-03
629-623-0500	1-1-03	Adopt	1-1-03	635-006-0132	7-17-03	Amend	9-1-03
629-623-0550	1-1-03	Adopt	1-1-03	635-006-0133	7-17-03	Adopt	9-1-03
629-623-0600	1-1-03	Adopt	1-1-03	635-006-0210	7-17-03	Amend	9-1-03
629-623-0700	1-1-03	Adopt	1-1-03	635-006-0211	7-17-03	Amend	9-1-03
629-623-0800	1-1-03	Adopt	1-1-03	635-006-0212	7-17-03	Amend	9-1-03
629-625-0100	1-1-03	Amend	1-1-03	635-006-0213	7-17-03	Amend	9-1-03
629-625-0200	1-1-03	Amend	1-1-03	635-006-0232	2-1-03	Amend	3-1-03
629-625-0310	1-1-03	Amend	1-1-03	635-006-0850	1-1-03	Amend	2-1-03
629-625-0330	1-1-03	Amend	1-1-03	635-006-0850	3-26-03	Amend	5-1-03
629-625-0600	1-1-03	Amend	1-1-03	635-006-0850	5-12-03	Amend(T)	6-1-03
629-625-0700	1-1-03	Adopt	1-1-03	635-006-1010	2-10-03	Amend(T)	3-1-03
629-630-0100	1-1-03	Amend	1-1-03	635-006-1035	2-10-03	Amend(T)	3-1-03
629-630-0150	1-1-03	Adopt	1-1-03	635-006-1085	2-10-03	Amend(T)	3-1-03
629-630-0500	1-1-03	Amend	1-1-03	635-007-0501	11-22-02	Amend	1-1-03
629-630-0500	1-29-03	Amend(T)	3-1-03	635-007-0501	7-17-03	Amend	9-1-03
629-630-0500	7-1-03	Amend	8-1-03	635-007-0501	9-19-03	Amend	11-1-03
632-007-0000	1-1-03	Adopt	2-1-03	635-007-0502	11-22-02	Adopt	1-1-03
632-007-0000	1-1-03	Suspend	2-1-03	635-007-0503	11-22-02	Adopt	1-1-03
632-007-0000	6-29-03	Amend	8-1-03	635-007-0504	11-22-02	Adopt	1-1-03
632-007-0010	1-1-03	Adopt	2-1-03	635-007-0505	11-22-02	Adopt	1-1-03
632-007-0010	1-1-03	Suspend	2-1-03	635-007-0505	9-19-03	Amend	11-1-03
632-007-0010	6-29-03	Amend	8-1-03	635-007-0506	11-22-02	Adopt	1-1-03
632-007-0020	1-1-03	Adopt	2-1-03	635-007-0507	9-19-03	Adopt	11-1-03
632-007-0020	1-1-03	Suspend	2-1-03	635-007-0509	9-19-03	Adopt	11-1-03
632-007-0020	6-29-03	Amend	8-1-03	635-007-0510	9-19-03	Repeal	11-1-03
632-007-0030	1-1-03	Adopt	2-1-03	635-007-0515	9-19-03	Repeal	11-1-03
632-007-0030	1-1-03	Suspend	2-1-03	635-007-0521	9-19-03	Repeal	11-1-03
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635-007-0525	9-19-03	Repeal	11-1-03	635-014-0090	6-13-03	Amend(T)	7-1-03
635-007-0526	9-19-03	Repeal	11-1-03	635-014-0090	9-13-03	Amend	10-1-03
635-007-0527	9-19-03	Repeal	11-1-03	635-016-0080	1-1-03	Amend	1-1-03
635-007-0528	9-19-03	Repeal	11-1-03	635-016-0090	1-1-03	Amend	1-1-03
635-007-0529	9-19-03	Repeal	11-1-03	635-016-0090	9-13-03	Amend	10-1-03
635-007-0536	9-19-03	Repeal	11-1-03	635-017-0080	1-1-03	Amend	1-1-03
635-007-0537	9-19-03	Repeal	11-1-03	635-017-0090	1-1-03	Amend	1-1-03
635-007-0538	9-19-03	Repeal	11-1-03	635-017-0090	3-1-03	Amend(T)	4-1-03
635-007-0540	7-17-03	Repeal	9-1-03	635-017-0090	5-16-03	Amend	7-1-03
635-007-0541	7-17-03	Repeal	9-1-03	635-017-0090	6-18-03	Amend(T)	8-1-03
635-007-0542	7-17-03	Adopt	9-1-03	635-017-0090	7-8-03	Amend(T)	8-1-03
635-007-0543	7-17-03	Adopt	9-1-03	635-017-0090	7-11-03	Amend(T)	8-1-03
635-007-0544	7-17-03	Adopt	9-1-03	635-017-0090	7-23-03	Amend(T)	9-1-03
635-007-0545	7-17-03	Adopt	9-1-03	635-017-0090	7-25-03	Amend(T)	9-1-03
635-007-0547	7-17-03	Adopt	9-1-03	635-017-0090	9-13-03	Amend	10-1-03
635-007-0548	7-17-03	Adopt	9-1-03	635-018-0080	1-1-03	Amend	1-1-03
635-007-0550	9-12-03	Suspend	10-1-03	635-018-0090	1-1-03	Amend	1-1-03
635-007-0555	9-12-03	Suspend	10-1-03	635-018-0090	4-15-03	Amend(T)	5-1-03
635-007-0560	9-12-03	Suspend	10-1-03	635-018-0090	8-1-03	Amend(T)	9-1-03
635-007-0565	9-12-03	Suspend	10-1-03	635-019-0080	1-1-03	Amend	1-1-03
635-007-0570	9-12-03	Suspend	10-1-03	635-019-0090	1-1-03	Amend	1-1-03
635-007-0575	9-12-03	Suspend	10-1-03	635-019-0090	5-28-03	Amend(T)	7-1-03
635-007-0580	9-12-03	Suspend	10-1-03	635-019-0090	6-5-03	Amend(T)	7-1-03
635-007-0585	9-12-03	Suspend	10-1-03	635-021-0080	1-1-03	Amend	1-1-03
635-007-0590	9-12-03	Suspend	10-1-03	635-021-0090	1-1-03	Amend	1-1-03
635-007-0800	9-19-03	Repeal	11-1-03	635-021-0090	8-22-03	Amend(T)	10-1-03
635-007-0805	9-19-03	Repeal	11-1-03	635-021-0100	1-1-03	Repeal	1-1-03
635-007-0810	9-19-03	Repeal	11-1-03	635-023-0080	1-1-03	Amend	1-1-03
635-007-0815	9-19-03	Repeal	11-1-03	635-023-0090	1-1-03	Amend	1-1-03
635-007-0817	9-19-03	Repeal	11-1-03	635-023-0090	2-14-03	Amend	3-1-03
635-007-0960	9-19-03	Adopt	11-1-03	635-023-0090	3-1-03	Amend(T)	4-1-03
635-007-0965	9-19-03	Adopt	11-1-03	635-023-0090	4-3-03	Amend(T)	5-1-03
635-007-0970	9-19-03	Adopt	11-1-03	635-023-0090	5-1-03	Amend	6-1-03
635-007-0975	9-19-03	Adopt	11-1-03	635-023-0090	5-1-03	Amend(T)	6-1-03
635-007-0980	9-19-03	Adopt	11-1-03	635-023-0090	5-30-03	Amend(T)	7-1-03
635-007-0985	9-19-03	Adopt	11-1-03	635-023-0090	6-21-03	Amend(T)	7-1-03
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635-011-0101	8-3-03	Amend(T)	9-1-03	635-039-0090	1-1-03	Amend	1-1-03
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635-013-0004	3-1-03	Amend(T)	4-1-03	635-041-0063	6-5-03	Amend(T)	7-1-03
635-013-0004	5-1-03	Amend	6-1-03	635-041-0063	7-9-03	Amend(T)	8-1-03
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635-013-0009	5-1-03	Amend	6-1-03	635-041-0067	4-24-03	Amend(T)	6-1-03
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635-041-0073	7-21-03	Amend(T)	9-1-03	635-045-0002	1-17-02	Amend	3-1-03
635-041-0075	8-13-03	Amend(T)	9-1-03	635-047-0010	7-30-03	Amend(T)	9-1-03
635-041-0075	8-26-03	Amend(T)	10-1-03	635-050-0170	8-27-03	Amend(T)	10-1-03
635-041-0075	9-16-03	Amend(T)	10-1-03	635-051-0000	8-13-03	Amend	9-1-03
635-041-0075	9-24-03	Amend(T)	11-1-03	635-051-0000	8-26-03	Amend(T)	10-1-03
635-041-0075	10-1-03	Amend(T)	11-1-03	635-052-0000	8-13-03	Amend	9-1-03
635-041-0075	10-8-03	Amend(T)	11-1-03	635-053-0000	8-13-03	Amend	9-1-03
635-041-0075	10-11-03	Amend(T)	11-1-03	635-053-0100	5-13-03	Amend	6-1-03
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635-042-0031	8-13-03	Amend(T)	9-1-03	635-060-0000	1-17-02	Amend	3-1-03
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635-042-0060	9-17-03	Amend(T)	11-1-03	635-065-0001	1-17-02	Amend	3-1-03
635-042-0060	9-23-03	Amend(T)	11-1-03	635-065-0001	1-28-03	Amend(T)	3-1-03
635-042-0060	10-12-03	Amend(T)	11-1-03	635-065-0001	8-27-03	Amend(T)	10-1-03
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635-042-0135	12-19-02	Amend(T)	2-1-03	635-065-0090	1-17-02	Amend	3-1-03
635-042-0135	1-28-03	Amend(T)	3-1-03	635-065-0101	1-17-02	Amend	3-1-03
635-042-0135	2-3-03	Amend(T)	3-1-03	635-065-0301	1-17-02	Amend	3-1-03
635-042-0145	2-14-03	Amend	3-1-03	635-065-0401	1-17-02	Amend	3-1-03
635-042-0145	3-1-03	Amend(T)	4-1-03	635-065-0625	1-17-02	Amend	3-1-03
635-042-0145	4-23-03	Amend(T)	6-1-03	635-065-0625	1-28-03	Amend(T)	3-1-03
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635-042-0145	5-1-03	Amend(T)	6-1-03	635-065-0735	1-17-02	Amend	3-1-03
635-042-0145	5-7-03	Amend(T)	6-1-03	635-065-0740	1-17-02	Amend	3-1-03
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635-042-0145	9-9-03	Amend(T)	10-1-03	635-065-0760	7-1-03	Amend	3-1-03
635-042-0160	2-14-03	Amend	3-1-03	635-065-0765	1-17-02	Amend	3-1-03
635-042-0160	4-24-03	Amend(T)	6-1-03	635-065-0765	6-13-03	Amend	7-1-03
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635-190-0020	2-14-03	Amend	3-1-03	690-015-0300	5-1-03	Am. & Ren.	6-1-03
635-190-0030	2-14-03	Amend	3-1-03	690-015-0310	5-1-03	Renumber	6-1-03
635-412-0020	3-26-03	Adopt	5-1-03	690-015-0320	5-1-03	Am. & Ren.	6-1-03
635-412-0025	3-26-03	Adopt	5-1-03	690-015-0400	5-1-03	Renumber	6-1-03
635-412-0030	3-26-03	Adopt	5-1-03	690-200-0050	3-14-03	Amend	4-1-03
635-500-3430	9-25-03	Amend	11-1-03	690-205-0005	3-14-03	Amend	4-1-03
635-500-3440	9-25-03	Amend	11-1-03	690-205-0020	3-14-03	Amend	4-1-03
635-500-3450	9-25-03	Amend	11-1-03	690-205-0030	3-14-03	Renumber	4-1-03
635-500-3460	9-25-03	Amend	11-1-03	690-205-0035	3-14-03	Adopt	4-1-03
644-001-0000	1-6-03	Amend	2-1-03	690-205-0040	3-14-03	Renumber	4-1-03
644-001-0005	1-6-03	Repeal	2-1-03	690-205-0045	3-14-03	Adopt	4-1-03
644-001-0010	1-6-03	Repeal	2-1-03	690-205-0050	3-14-03	Renumber	4-1-03
644-010-0015	1-6-03	Amend	2-1-03	690-205-0055	3-14-03	Adopt	4-1-03
647-010-0010	6-1-03	Amend	6-1-03	690-205-0060	3-14-03	Renumber	4-1-03
660-022-0030	3-28-03	Amend(T)	5-1-03	690-205-0070	3-14-03	Am. & Ren.	4-1-03
660-022-0030	9-24-03	Amend	11-1-03	690-205-0075	3-14-03	Adopt	4-1-03
660-022-0030	9-26-03	Amend	11-1-03	690-205-0080	3-14-03	Renumber	4-1-03
660-026-0000	1-17-03	Adopt	3-1-03	690-205-0085	3-14-03	Adopt	4-1-03
660-026-0010	1-17-03	Adopt	3-1-03	690-205-0095	3-14-03	Adopt	4-1-03
660-026-0020	1-17-03	Adopt	3-1-03	690-205-0110	3-14-03	Adopt	4-1-03
660-026-0030	1-17-03	Adopt	3-1-03	690-205-0120	3-14-03	Adopt	4-1-03
660-026-0040	1-17-03	Adopt	3-1-03	690-240-0010	3-14-03	Amend	4-1-03
670-010-0005	11-1-03	Amend	11-1-03	690-240-0020	3-14-03	Amend	4-1-03
670-010-0006	11-1-03	Adopt	11-1-03	690-240-0035	3-14-03	Amend	4-1-03
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670-010-0011	11-1-03	Adopt	11-1-03	690-240-0065	3-14-03	Amend	4-1-03
670-010-0015	11-1-03	Amend	11-1-03	690-240-0075	3-14-03	Renumber	4-1-03
678-010-0040	12-30-02	Amend	2-1-03	690-240-0080	3-14-03	Renumber	4-1-03
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690-015-0005	5-1-03	Am. & Ren.	6-1-03	690-240-0085	3-14-03	Renumber	4-1-03
690-015-0010	5-1-03	Am. & Ren.	6-1-03	690-240-0090	3-14-03	Am. & Ren.	4-1-03
690-015-0020	5-1-03	Renumber	6-1-03	690-240-0095	3-14-03	Am. & Ren.	4-1-03

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690-240-0115	3-14-03	Renumber	4-1-03	718-010-0050	4-1-03	Repeal	5-1-03
690-240-0118	3-14-03	Am. & Ren.	4-1-03	718-010-0055	4-1-03	Repeal	5-1-03
690-240-0120	3-14-03	Renumber	4-1-03	718-010-0060	4-1-03	Repeal	5-1-03
690-240-0126	3-14-03	Am. & Ren.	4-1-03	718-010-0070	4-1-03	Repeal	5-1-03
690-240-0130	3-14-03	Renumber	4-1-03	718-010-0080	4-1-03	Repeal	5-1-03
690-240-0131	3-14-03	Renumber	4-1-03	718-010-0085	4-1-03	Amend	5-1-03
690-240-0132	3-14-03	Am. & Ren.	4-1-03	718-010-0090	4-1-03	Amend	5-1-03
690-240-0135	3-14-03	Am. & Ren.	4-1-03	718-020-0000	4-1-03	Amend	5-1-03
690-240-0137	3-14-03	Am. & Ren.	4-1-03	718-020-0010	4-1-03	Amend	5-1-03
690-240-0139	3-14-03	Renumber	4-1-03	718-020-0020	4-1-03	Amend	5-1-03
690-240-0145	3-14-03	Renumber	4-1-03	718-020-0050	4-1-03	Amend	5-1-03
690-240-0150	3-14-03	Renumber	4-1-03	718-020-0080	4-1-03	Amend	5-1-03
690-240-0155	3-14-03	Am. & Ren.	4-1-03	718-020-0110	4-1-03	Amend	5-1-03
690-240-0160	3-14-03	Renumber	4-1-03	718-020-0120	4-1-03	Amend	5-1-03
690-240-0165	3-14-03	Renumber	4-1-03	718-020-0130	4-1-03	Amend	5-1-03
690-240-0170	3-14-03	Renumber	4-1-03	718-020-0140	4-1-03	Amend	5-1-03
690-240-0175	3-14-03	Am. & Ren.	4-1-03	718-020-0150	4-1-03	Amend	5-1-03
690-240-0180	3-14-03	Am. & Ren.	4-1-03	718-040-0030	4-1-03	Amend	5-1-03
690-240-0200	3-14-03	Adopt	4-1-03	718-040-0110	4-1-03	Amend	5-1-03
690-240-0210	3-14-03	Adopt	4-1-03	731-007-0050	8-1-03	Amend(T)	9-1-03
690-240-0220	3-14-03	Adopt	4-1-03	731-010-0030	1-16-03	Amend(T)	3-1-03
690-240-0240	3-14-03	Adopt	4-1-03	731-010-0030	3-24-03	Amend	5-1-03
690-240-0250	3-14-03	Adopt	4-1-03	731-010-0030(T)	3-24-03	Repeal	5-1-03
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690-380-2200	5-1-03	Adopt	6-1-03	733-020-0030	9-11-03	Repeal	10-1-03
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690-380-4010	5-1-03	Adopt	6-1-03	734-071-0010	12-13-02	Amend	1-1-03
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735-050-0090	7-17-03	Amend	9-1-03	735-090-0100	11-18-02	Repeal	1-1-03
735-050-0110	1-1-03	Amend	1-1-03	735-090-0110	11-18-02	Amend	1-1-03
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735-062-0060	6-1-03	Amend	6-1-03	735-140-0025	7-17-03	Amend(T)	9-1-03
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735-074-0000	6-1-03	Repeal	6-1-03	736-018-0045	2-27-03	Amend	4-1-03
735-074-0005	1-1-03	Adopt	1-1-03	736-018-0045	7-8-03	Amend	8-1-03
735-074-0010	1-1-03	Amend	1-1-03	736-018-0045	10-13-03	Amend	11-1-03
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735-074-0020	6-1-03	Am. & Ren.	6-1-03	736-040-0071	10-3-03	Amend	11-1-03
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735-074-0050	6-1-03	Adopt	6-1-03	736-052-0020	5-16-03	Adopt	7-1-03
735-074-0060	6-1-03	Adopt	6-1-03	736-052-0030	5-16-03	Adopt	7-1-03
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735-074-0120	6-1-03	Adopt	6-1-03	736-100-0040	2-1-03	Adopt	3-1-03
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738-035-0065	3-1-03	Adopt	4-1-03	741-060-0090	7-17-03	Amend	9-1-03
738-035-0070	3-1-03	Adopt	4-1-03	741-060-0100	7-17-03	Adopt	9-1-03
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738-040-0040	12-1-02	Amend	1-1-03	741-100-0030	10-1-03	Adopt	11-1-03
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738-100-0035	12-1-02	Amend	1-1-03	741-120-0030	10-1-03	Amend	11-1-03
740-020-0010	7-17-03	Adopt	9-1-03	741-120-0040	10-1-03	Amend	11-1-03
740-020-0020	7-17-03	Adopt	9-1-03	741-120-0050	10-1-03	Amend	11-1-03
740-035-0200	11-18-02	Amend	1-1-03	741-125-0010	10-1-03	Amend	11-1-03
740-035-0210	11-18-02	Repeal	1-1-03	741-125-0030	10-1-03	Adopt	11-1-03
740-035-0220	11-18-02	Repeal	1-1-03	741-200-0020	10-1-03	Amend	11-1-03
740-035-0230	11-18-02	Repeal	1-1-03	741-200-0030	10-1-03	Amend	11-1-03
740-035-0240	11-18-02	Repeal	1-1-03	741-200-0040	10-1-03	Amend	11-1-03
740-035-0250	11-18-02	Amend	1-1-03	741-200-0050	10-1-03	Amend	11-1-03
740-035-0260	11-18-02	Amend	1-1-03	741-200-0060	10-1-03	Amend	11-1-03
740-045-0160	8-21-03	Repeal	10-1-03	741-200-0070	10-1-03	Repeal	11-1-03
740-055-0120	2-13-03	Amend	3-1-03	741-200-0090	10-1-03	Amend	11-1-03
740-100-0010	4-21-03	Amend	6-1-03	741-500-0010	3-24-03	Repeal	5-1-03
740-100-0070	4-21-03	Amend	6-1-03	741-500-0020	3-24-03	Repeal	5-1-03
740-100-0080	4-21-03	Amend	6-1-03	741-500-0030	3-24-03	Repeal	5-1-03
740-100-0090	4-21-03	Amend	6-1-03	741-500-0040	3-24-03	Repeal	5-1-03
740-110-0010	4-21-03	Amend	6-1-03	741-500-0050	3-24-03	Repeal	5-1-03
740-200-0010	11-18-02	Amend	1-1-03	800-001-0010	9-23-03	Amend	11-1-03
740-200-0020	11-18-02	Amend	1-1-03	800-001-0017	9-23-03	Amend	11-1-03
740-200-0040	11-18-02	Adopt	1-1-03	800-010-0025	9-23-03	Amend	11-1-03
741-060-0010	7-17-03	Amend	9-1-03	800-015-0005	9-23-03	Amend	11-1-03
741-060-0020	7-17-03	Amend	9-1-03	800-015-0010	9-23-03	Amend	11-1-03
741-060-0030	7-17-03	Amend	9-1-03	800-015-0020	9-23-03	Amend	11-1-03
741-060-0040	7-17-03	Amend	9-1-03	800-015-0030	9-23-03	Amend	11-1-03
741-060-0050	7-17-03	Amend	9-1-03	800-020-0015	9-23-03	Amend	11-1-03
741-060-0060	7-17-03	Amend	9-1-03	800-020-0020	9-23-03	Amend	11-1-03

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800-020-0026	9-23-03	Amend	11-1-03	808-002-0725	10-1-03	Adopt	11-1-03
800-030-0025	9-23-03	Amend	11-1-03	808-002-0785	8-1-03	Adopt	9-1-03
800-030-0050	9-23-03	Amend	11-1-03	808-003-0015	2-1-03	Amend	3-1-03
801-001-0000	1-1-03	Amend	2-1-03	808-003-0020	2-1-03	Amend	3-1-03
801-001-0005	1-1-03	Amend	2-1-03	808-003-0025	12-4-02	Amend	1-1-03
801-001-0010	1-1-03	Amend	2-1-03	808-003-0025	6-1-03	Amend	7-1-03
801-001-0020	1-1-03	Amend	2-1-03	808-003-0035	2-1-03	Amend	3-1-03
801-001-0030	1-1-03	Adopt	2-1-03	808-003-0040	2-1-03	Amend	3-1-03
801-001-0050	10-15-03	Adopt(T)	11-1-03	808-003-0045	2-1-03	Amend	3-1-03
801-005-0010	1-1-03	Amend	2-1-03	808-003-0045	6-1-03	Amend	7-1-03
801-010-0010	1-1-03	Amend	2-1-03	808-003-0050	6-1-03	Amend	7-1-03
801-010-0045	1-1-03	Amend	2-1-03	808-003-0055	12-4-02	Amend	1-1-03
801-010-0050	1-1-03	Amend	2-1-03	808-003-0060	2-1-03	Amend	3-1-03
801-010-0060	1-1-03	Amend	2-1-03	808-003-0065	2-1-03	Amend	3-1-03
801-010-0065	1-1-03	Amend	2-1-03	808-003-0070	12-4-02	Amend	1-1-03
801-010-0075	1-1-03	Amend	2-1-03	808-003-0070	10-1-03	Amend	11-1-03
801-010-0078	1-1-03	Amend	2-1-03	808-003-0075	12-4-02	Amend	1-1-03
801-010-0079	1-1-03	Amend	2-1-03	808-003-0081	12-4-02	Adopt	1-1-03
801-010-0080	1-1-03	Amend	2-1-03	808-003-0085	12-4-02	Adopt	1-1-03
801-010-0085	1-1-03	Amend	2-1-03	808-003-0090	8-1-03	Amend	9-1-03
801-010-0100	1-1-03	Amend	2-1-03	808-003-0095	2-1-03	Amend	3-1-03
801-010-0110	1-1-03	Amend	2-1-03	808-003-0100	12-4-02	Amend	1-1-03
801-010-0115	1-1-03	Amend	2-1-03	808-003-0100	8-1-03	Amend	9-1-03
801-010-0340	1-1-03	Amend	2-1-03	808-003-0105	2-1-03	Amend	3-1-03
801-020-0620	1-1-03	Amend	2-1-03	808-003-0130	2-1-03	Amend	3-1-03
801-020-0690	1-1-03	Amend	2-1-03	808-003-0130	10-1-03	Amend	11-1-03
801-020-0710	1-1-03	Amend	2-1-03	808-003-0210	8-1-03	Adopt	9-1-03
801-020-0720	1-1-03	Amend	2-1-03	808-004-0120	12-4-02	Adopt	1-1-03
801-030-0020	1-1-03	Amend	2-1-03	808-004-0180	12-4-02	Amend	1-1-03
801-040-0010	1-1-03	Amend	2-1-03	808-004-0200	12-4-02	Am. & Ren.	1-1-03
801-040-0030	1-1-03	Amend	2-1-03	808-004-0250	12-4-02	Amend	1-1-03
801-040-0050	1-1-03	Amend	2-1-03	808-004-0260	12-4-02	Adopt	1-1-03
806-001-0003	7-1-03	Amend	5-1-03	808-004-0260	10-1-03	Amend	11-1-03
806-010-0020	8-14-03	Amend	9-1-03	808-004-0300	8-1-03	Amend	9-1-03
806-010-0035	8-14-03	Amend	9-1-03	808-004-0320	12-4-02	Amend	1-1-03
806-010-0080	4-11-03	Amend	5-1-03	808-004-0340	12-4-02	Amend	1-1-03
806-010-0090	1-15-03	Amend	2-1-03	808-004-0340	8-1-03	Amend	9-1-03
806-010-0095	12-12-02	Amend	1-1-03	808-004-0350	8-1-03	Adopt	9-1-03
806-010-0105	1-15-03	Amend	2-1-03	808-004-0400	8-1-03	Amend	9-1-03
806-010-0110	4-11-03	Amend	5-1-03	808-004-0420	8-1-03	Adopt	9-1-03
806-010-0145	1-15-03	Amend	2-1-03	808-004-0440	12-4-02	Amend	1-1-03
808-001-0000	2-1-03	Amend	3-1-03	808-004-0440	2-1-03	Amend	3-1-03
808-001-0005	2-1-03	Amend	3-1-03	808-004-0450	12-4-02	Adopt	1-1-03
808-001-0008	6-1-03	Adopt	7-1-03	808-004-0460	12-4-02	Amend	1-1-03
808-001-0020	12-4-02	Amend	1-1-03	808-004-0480	12-4-02	Amend	1-1-03
808-001-0020	2-1-03	Amend	3-1-03	808-004-0500	12-4-02	Amend	1-1-03
808-001-0030	12-4-02	Amend	1-1-03	808-004-0520	12-4-02	Amend	1-1-03
808-001-0040	2-1-03	Repeal	3-1-03	808-004-0520	10-1-03	Amend	11-1-03
808-002-0130	10-1-03	Adopt	11-1-03	808-004-0540	12-4-02	Amend	1-1-03
808-002-0220	12-4-02	Amend	1-1-03	808-004-0540	10-1-03	Amend	11-1-03
808-002-0290	12-4-02	Adopt	1-1-03	808-004-0550	12-4-02	Amend	1-1-03
808-002-0450	10-1-03	Repeal	11-1-03	808-004-0550	8-1-03	Amend	9-1-03
808-002-0620	6-1-03	Amend	7-1-03	808-004-0550	10-1-03	Amend	11-1-03
808-002-0670	12-4-02	Amend	1-1-03	808-004-0560	12-4-02	Amend	1-1-03
808-002-0670	12-4-02	Repeal	1-1-03	808-004-0560	2-1-03	Amend	3-1-03

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808-004-0560	10-1-03	Amend	11-1-03	808-009-0160	8-1-03	Amend	9-1-03
808-004-0580	12-4-02	Am. & Ren.	1-1-03	808-009-0160	10-1-03	Amend	11-1-03
808-004-0590	2-1-03	Adopt	3-1-03	808-009-0200	2-1-03	Adopt	3-1-03
808-004-0590	10-1-03	Amend	11-1-03	808-009-0200	10-1-03	Amend	11-1-03
808-004-0600	12-4-02	Amend	1-1-03	808-009-0220	12-4-02	Amend	1-1-03
808-004-0600	8-1-03	Amend	9-1-03	808-009-0220	10-1-03	Amend	11-1-03
808-005-0020	12-4-02	Amend	1-1-03	808-009-0400	12-4-02	Amend	1-1-03
808-005-0020	6-1-03	Amend	7-1-03	808-009-0400	2-1-03	Amend	3-1-03
808-005-0030	12-4-02	Amend	1-1-03	808-009-0400	10-1-03	Amend	11-1-03
808-008-0020	2-1-03	Amend	3-1-03	808-009-0420	12-4-02	Amend	1-1-03
808-008-0020	10-1-03	Amend	11-1-03	808-009-0420	2-1-03	Amend	3-1-03
808-008-0030	2-1-03	Adopt	3-1-03	808-009-0430	12-4-02	Adopt	1-1-03
808-008-0030	10-1-03	Amend	11-1-03	808-009-0430	10-1-03	Amend	11-1-03
808-008-0040	2-1-03	Amend	3-1-03	808-009-0440	12-4-02	Amend	1-1-03
808-008-0060	2-1-03	Amend	3-1-03	809-010-0025	7-1-03	Amend	7-1-03
808-008-0060	10-1-03	Amend	11-1-03	809-050-0030	12-2-02	Suspend	1-1-03
808-008-0080	2-1-03	Amend	3-1-03	809-050-0030	4-4-03	Repeal	5-1-03
808-008-0080	10-1-03	Amend	11-1-03	811-010-0093	9-17-03	Amend	11-1-03
808-008-0085	2-1-03	Adopt	3-1-03	812-001-0020	12-23-02	Amend	2-1-03
808-008-0085	10-1-03	Amend	11-1-03	812-001-0020	3-11-03	Amend(T)	4-1-03
808-008-0090	2-1-03	Adopt	3-1-03	812-001-0020	6-3-03	Amend	7-1-03
808-008-0090	10-1-03	Amend	11-1-03	812-001-0020(T)	6-3-03	Repeal	7-1-03
808-008-0100	2-1-03	Amend	3-1-03	812-002-0011	8-8-03	Adopt	9-1-03
808-008-0100	8-1-03	Amend	9-1-03	812-002-0100	6-3-03	Amend	7-1-03
808-008-0110	2-1-03	Amend	3-1-03	812-002-0240	10-1-03	Suspend	11-1-03
808-008-0120	2-1-03	Amend	3-1-03	812-002-0260	6-3-03	Amend	7-1-03
808-008-0120	10-1-03	Amend	11-1-03	812-002-0280	6-3-03	Amend	7-1-03
808-008-0140	2-1-03	Amend	3-1-03	812-002-0330	8-8-03	Repeal	9-1-03
808-008-0160	2-1-03	Amend	3-1-03	812-002-0335	8-8-03	Repeal	9-1-03
808-008-0160	10-1-03	Amend	11-1-03	812-002-0340	6-3-03	Amend	7-1-03
808-008-0180	2-1-03	Amend	3-1-03	812-002-0420	6-3-03	Amend	7-1-03
808-008-0220	2-1-03	Amend	3-1-03	812-002-0420	7-9-03	Amend(T)	8-1-03
808-008-0300	2-1-03	Amend	3-1-03	812-002-0480	3-4-03	Amend	4-1-03
808-008-0400	2-1-03	Amend	3-1-03	812-002-0530	8-8-03	Adopt	9-1-03
808-008-0400	10-1-03	Amend	11-1-03	812-002-0540	10-1-03	Amend(T)	11-1-03
808-008-0420	2-1-03	Amend	3-1-03	812-002-0640	6-3-03	Amend	7-1-03
808-008-0425	2-1-03	Adopt	3-1-03	812-003-0000	6-3-03	Amend	7-1-03
808-008-0425	10-1-03	Amend	11-1-03	812-003-0000	10-1-03	Amend	7-1-03
808-008-0430	2-1-03	Adopt	3-1-03	812-003-0000	10-1-03	Amend(T)	11-1-03
808-008-0440	2-1-03	Amend	3-1-03	812-003-0000	1-1-04	Amend	9-1-03
808-008-0460	2-1-03	Amend	3-1-03	812-003-0000	1-1-04	Amend	11-1-03
808-008-0480	2-1-03	Amend	3-1-03	812-003-0002	6-3-03	Amend	7-1-03
808-009-0020	12-4-02	Amend	1-1-03	812-003-0020	6-3-03	Amend	7-1-03
808-009-0020	2-1-03	Amend	3-1-03	812-003-0020	10-1-03	Amend(T)	11-1-03
808-009-0020	10-1-03	Amend	11-1-03	812-003-0025	6-3-03	Amend	7-1-03
808-009-0050	10-1-03	Amend	11-1-03	812-003-0025	10-1-03	Amend(T)	11-1-03
808-009-0070	12-4-02	Amend	1-1-03	812-003-0050	6-3-03	Amend	7-1-03
808-009-0070	10-1-03	Amend	11-1-03	812-004-0001	3-4-03	Amend	4-1-03
808-009-0100	12-4-02	Amend	1-1-03	812-004-0250	8-8-03	Amend	9-1-03
808-009-0100	10-1-03	Amend	11-1-03	812-004-0260	8-8-03	Amend	9-1-03
808-009-0120	12-4-02	Amend	1-1-03	812-004-0300	3-4-03	Amend	4-1-03
808-009-0120	10-1-03	Amend	11-1-03	812-004-0320	3-4-03	Amend	4-1-03
808-009-0140	12-18-02	Amend	2-1-03	812-004-0320	8-8-03	Amend	9-1-03
808-009-0140	10-1-03	Amend	11-1-03	812-004-0325	3-4-03	Adopt	4-1-03
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812-004-0360	11-20-02	Amend	1-1-03	812-010-0090	8-8-03	Amend	9-1-03
812-004-0400	6-3-03	Amend	7-1-03	812-010-0100	11-20-02	Amend	1-1-03
812-004-0520	3-4-03	Amend	4-1-03	812-010-0100	8-8-03	Amend	9-1-03
812-004-0520	8-8-03	Amend	9-1-03	812-010-0100(T)	11-20-02	Repeal	1-1-03
812-004-0535	3-4-03	Adopt	4-1-03	812-010-0110	11-20-02	Amend	1-1-03
812-004-0535	8-8-03	Amend	9-1-03	812-010-0110(T)	11-20-02	Repeal	1-1-03
812-004-0540	11-20-02	Amend	1-1-03	812-010-0120	11-20-02	Amend	1-1-03
812-004-0540	3-4-03	Amend	4-1-03	812-010-0120	8-8-03	Amend	9-1-03
812-004-0540	8-8-03	Amend	9-1-03	812-010-0120(T)	11-20-02	Repeal	1-1-03
812-004-0550	3-4-03	Amend	4-1-03	812-010-0160	8-8-03	Amend	9-1-03
812-004-0550	8-8-03	Amend	9-1-03	812-010-0220	11-20-02	Amend	1-1-03
812-004-0560	11-20-02	Amend	1-1-03	812-010-0400	8-8-03	Amend	9-1-03
812-004-0560	3-4-03	Amend	4-1-03	812-010-0420	11-20-02	Amend	1-1-03
812-004-0560	8-8-03	Amend	9-1-03	812-010-0420	8-8-03	Amend	9-1-03
812-004-0560(T)	11-20-02	Repeal	1-1-03	812-010-0425	8-8-03	Amend	9-1-03
812-004-0590	8-8-03	Amend	9-1-03	812-010-0440	11-20-02	Amend	1-1-03
812-006-0012	3-4-03	Amend	4-1-03	812-010-0440(T)	11-20-02	Repeal	1-1-03
812-006-0012	8-8-03	Amend	9-1-03	813-008-0005	12-5-02	Amend	1-1-03
812-006-0030	6-3-03	Amend	7-1-03	813-008-0010	12-5-02	Amend	1-1-03
812-006-0050	3-4-03	Amend	4-1-03	813-008-0015	12-5-02	Amend	1-1-03
812-008-0050	6-3-03	Amend	7-1-03	813-008-0020	12-5-02	Amend	1-1-03
812-008-0060	6-3-03	Amend	7-1-03	813-008-0025	12-5-02	Amend	1-1-03
812-008-0070	3-4-03	Amend	4-1-03	813-008-0030	12-5-02	Amend	1-1-03
812-008-0072	11-20-02	Amend	1-1-03	813-008-0040	12-5-02	Adopt	1-1-03
812-008-0072	6-3-03	Amend	7-1-03	813-047-0001	11-20-02	Amend(T)	1-1-03
812-008-0074	6-3-03	Amend	7-1-03	813-047-0001	5-16-03	Amend	7-1-03
812-008-0110	1-14-03	Amend(T)	2-1-03	813-047-0001(T)	5-16-03	Repeal	7-1-03
812-008-0110	6-3-03	Amend	7-1-03	813-047-0005	11-20-02	Amend(T)	1-1-03
812-008-0110(T)	6-3-03	Repeal	7-1-03	813-047-0005	5-16-03	Amend	7-1-03
812-009-0020	11-20-02	Amend	1-1-03	813-047-0005(T)	5-16-03	Repeal	7-1-03
812-009-0020	8-8-03	Amend	9-1-03	813-047-0006	11-20-02	Adopt(T)	1-1-03
812-009-0050	8-8-03	Amend	9-1-03	813-047-0006	5-16-03	Adopt	7-1-03
812-009-0070	3-4-03	Amend	4-1-03	813-047-0006(T)	5-16-03	Repeal	7-1-03
812-009-0070	8-8-03	Amend	9-1-03	813-047-0010	11-20-02	Amend(T)	1-1-03
812-009-0090	8-8-03	Amend	9-1-03	813-047-0010	5-16-03	Amend	7-1-03
812-009-0100	3-4-03	Amend	4-1-03	813-047-0010(T)	5-16-03	Repeal	7-1-03
812-009-0100	8-8-03	Amend	9-1-03	813-047-0015	11-20-02	Amend(T)	1-1-03
812-009-0120	3-4-03	Amend	4-1-03	813-047-0015	5-16-03	Amend	7-1-03
812-009-0120	8-8-03	Amend	9-1-03	813-047-0015(T)	5-16-03	Repeal	7-1-03
812-009-0140	8-8-03	Amend	9-1-03	813-047-0020	11-20-02	Amend(T)	1-1-03
812-009-0160	11-20-02	Amend	1-1-03	813-047-0020	5-16-03	Amend	7-1-03
812-009-0160	8-8-03	Amend	9-1-03	813-047-0020(T)	5-16-03	Repeal	7-1-03
812-009-0200	8-8-03	Amend	9-1-03	813-047-0025	11-20-02	Amend(T)	1-1-03
812-009-0220	8-8-03	Amend	9-1-03	813-047-0025	5-16-03	Amend	7-1-03
812-009-0300	8-8-03	Amend	9-1-03	813-047-0025(T)	5-16-03	Repeal	7-1-03
812-009-0320	8-8-03	Amend	9-1-03	813-140-0000	11-25-02	Adopt	1-1-03
812-009-0400	3-4-03	Amend	4-1-03	813-140-0000(T)	11-25-02	Repeal	1-1-03
812-009-0400	8-8-03	Amend	9-1-03	813-140-0010	11-25-02	Adopt	1-1-03
812-009-0430	8-8-03	Amend	9-1-03	813-140-0010(T)	11-25-02	Repeal	1-1-03
812-009-0440	3-4-03	Amend	4-1-03	813-140-0020	11-25-02	Adopt	1-1-03
812-009-0440	8-8-03	Amend	9-1-03	813-140-0020(T)	11-25-02	Repeal	1-1-03
812-010-0020	8-8-03	Amend	9-1-03	813-140-0030	11-25-02	Adopt	1-1-03
812-010-0030	8-8-03	Amend	9-1-03	813-140-0030(T)	11-25-02	Repeal	1-1-03
812-010-0060	8-8-03	Amend	9-1-03	813-140-0040	11-25-02	Adopt	1-1-03
812-010-0080	8-8-03	Amend	9-1-03	813-140-0040(T)	11-25-02	Repeal	1-1-03

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813-140-0050(T)	11-25-02	Repeal	1-1-03	813-205-0050(T)	12-13-02	Repeal	1-1-03
813-140-0060	11-25-02	Adopt	1-1-03	813-205-0051	12-13-02	Adopt	1-1-03
813-140-0060(T)	11-25-02	Repeal	1-1-03	813-205-0060	12-13-02	Adopt	1-1-03
813-140-0070	11-25-02	Adopt	1-1-03	813-205-0060(T)	12-13-02	Repeal	1-1-03
813-140-0070(T)	11-25-02	Repeal	1-1-03	813-205-0070	12-13-02	Adopt	1-1-03
813-140-0080	11-25-02	Adopt	1-1-03	813-205-0070(T)	12-13-02	Repeal	1-1-03
813-140-0080(T)	11-25-02	Repeal	1-1-03	813-205-0080	12-13-02	Adopt	1-1-03
813-140-0090	11-25-02	Adopt	1-1-03	813-205-0080(T)	12-13-02	Repeal	1-1-03
813-140-0090(T)	11-25-02	Repeal	1-1-03	813-205-0090	12-13-02	Adopt	1-1-03
813-140-0100	11-25-02	Adopt	1-1-03	813-205-0090(T)	12-13-02	Repeal	1-1-03
813-140-0100(T)	11-25-02	Repeal	1-1-03	813-220-0000	5-12-03	Am. & Ren.	6-1-03
813-140-0110	11-25-02	Adopt	1-1-03	813-220-0001	5-12-03	Adopt	6-1-03
813-140-0110(T)	11-25-02	Repeal	1-1-03	813-220-0010	5-12-03	Amend	6-1-03
813-200-0000	11-20-02	Am. & Ren.(T)	1-1-03	813-220-0015	5-12-03	Adopt	6-1-03
813-200-0000	5-15-03	Am. & Ren.	6-1-03	813-220-0020	5-12-03	Amend	6-1-03
813-200-0001	11-20-02	Adopt(T)	1-1-03	813-220-0030	5-12-03	Amend	6-1-03
813-200-0001	5-15-03	Adopt	6-1-03	813-220-0040	5-12-03	Repeal	6-1-03
813-200-0001	5-15-03	Repeal	6-1-03	813-220-0050	5-12-03	Amend	6-1-03
813-200-0005	5-15-03	Repeal	6-1-03	813-220-0060	5-12-03	Amend	6-1-03
813-200-0010	11-20-02	Amend(T)	1-1-03	813-220-0070	5-12-03	Adopt	6-1-03
813-200-0010	5-15-03	Amend	6-1-03	813-250-0000	5-12-03	Amend	6-1-03
813-200-0010	5-15-03	Repeal	6-1-03	813-250-0010	5-12-03	Amend	6-1-03
813-200-0020	11-20-02	Amend(T)	1-1-03	813-250-0020	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Amend	6-1-03	813-250-0030	5-12-03	Amend	6-1-03
813-200-0020	5-15-03	Repeal	6-1-03	813-250-0040	5-12-03	Amend	6-1-03
813-200-0030	11-20-02	Amend(T)	1-1-03	813-250-0050	5-12-03	Adopt	6-1-03
813-200-0030	5-15-03	Amend	6-1-03	813-280-0000	12-13-02	Adopt	1-1-03
813-200-0030	5-15-03	Repeal	6-1-03	813-280-0000(T)	12-13-02	Repeal	1-1-03
813-200-0040	11-20-02	Amend(T)	1-1-03	813-280-0010	12-13-02	Adopt	1-1-03
813-200-0040	5-15-03	Amend	6-1-03	813-280-0010(T)	12-13-02	Repeal	1-1-03
813-200-0040	5-15-03	Repeal	6-1-03	813-280-0020	12-13-02	Adopt	1-1-03
813-200-0050	11-20-02	Amend(T)	1-1-03	813-280-0020(T)	12-13-02	Repeal	1-1-03
813-200-0050	5-15-03	Amend	6-1-03	813-280-0030	12-13-02	Adopt	1-1-03
813-200-0050	5-15-03	Repeal	6-1-03	813-280-0030(T)	12-13-02	Repeal	1-1-03
813-200-0060	11-20-02	Amend(T)	1-1-03	813-280-0040	12-13-02	Adopt	1-1-03
813-200-0060	5-15-03	Amend	6-1-03	813-280-0040(T)	12-13-02	Repeal	1-1-03
813-200-0060	5-15-03	Repeal	6-1-03	813-280-0050	12-13-02	Adopt	1-1-03
813-202-0005	5-15-03	Adopt	6-1-03	813-280-0050(T)	12-13-02	Repeal	1-1-03
813-202-0010	5-15-03	Adopt	6-1-03	813-280-0060	12-13-02	Adopt	1-1-03
813-202-0015	5-15-03	Adopt	6-1-03	813-280-0060(T)	12-13-02	Repeal	1-1-03
813-202-0020	5-15-03	Adopt	6-1-03	813-280-0070	12-13-02	Adopt	1-1-03
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813-202-0060	5-15-03	Adopt	6-1-03	813-300-0010	4-4-03	Adopt	5-1-03
813-205-0000	12-13-02	Adopt	1-1-03	813-300-0010(T)	4-4-03	Repeal	5-1-03
813-205-0000(T)	12-13-02	Repeal	1-1-03	813-300-0020	4-4-03	Adopt	5-1-03
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813-205-0020(T)	12-13-02	Repeal	1-1-03	813-300-0040	4-4-03	Adopt	5-1-03
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813-300-0070	4-4-03	Adopt	5-1-03	820-010-0305	12-3-02	Amend	1-1-03
813-300-0070(T)	4-4-03	Repeal	5-1-03	820-010-0325	7-1-03	Amend	6-1-03
813-300-0080	4-4-03	Adopt	5-1-03	820-010-0500	5-15-03	Amend	6-1-03
813-300-0080(T)	4-4-03	Repeal	5-1-03	820-010-0635	1-28-03	Amend	3-1-03
813-300-0090	4-4-03	Adopt	5-1-03	820-040-0040	1-28-03	Adopt	3-1-03
813-300-0090(T)	4-4-03	Repeal	5-1-03	833-020-0015	12-16-02	Amend(T)	1-1-03
813-300-0100	4-4-03	Adopt	5-1-03	833-020-0015	4-28-03	Amend	6-1-03
813-300-0100(T)	4-4-03	Repeal	5-1-03	833-020-0015(T)	4-28-03	Repeal	6-1-03
813-300-0110	4-4-03	Adopt	5-1-03	833-020-0040	12-16-02	Amend(T)	1-1-03
813-300-0110(T)	4-4-03	Repeal	5-1-03	833-020-0040	4-28-03	Amend	6-1-03
813-300-0120	4-4-03	Adopt	5-1-03	833-020-0040(T)	4-28-03	Repeal	6-1-03
813-300-0120(T)	4-4-03	Repeal	5-1-03	833-020-0060	12-16-02	Amend(T)	1-1-03
813-300-0130	4-4-03	Adopt	5-1-03	833-020-0060	4-28-03	Amend	6-1-03
813-300-0130(T)	4-4-03	Repeal	5-1-03	833-020-0060(T)	4-28-03	Repeal	6-1-03
813-300-0140	4-4-03	Adopt	5-1-03	833-020-0090	12-16-02	Amend(T)	1-1-03
813-300-0140(T)	4-4-03	Repeal	5-1-03	833-020-0090	4-28-03	Amend	6-1-03
813-300-0150	4-4-03	Adopt	5-1-03	833-020-0090(T)	4-28-03	Repeal	6-1-03
813-300-0150(T)	4-4-03	Repeal	5-1-03	833-020-0111	12-16-02	Amend(T)	1-1-03
813-300-0160	4-4-03	Adopt	5-1-03	833-020-0111	4-28-03	Amend	6-1-03
813-300-0160(T)	4-4-03	Repeal	5-1-03	833-020-0111(T)	4-28-03	Repeal	6-1-03
813-300-0170	4-4-03	Adopt	5-1-03	833-020-0130	12-16-02	Suspend	1-1-03
813-300-0170(T)	4-4-03	Repeal	5-1-03	833-020-0130	4-28-03	Repeal	6-1-03
813-300-0180	4-4-03	Adopt	5-1-03	833-025-0001	12-16-02	Amend(T)	1-1-03
813-300-0180(T)	4-4-03	Repeal	5-1-03	833-025-0001	4-28-03	Amend	6-1-03
813-350-0005	5-1-03	Adopt	6-1-03	833-025-0001(T)	4-28-03	Repeal	6-1-03
813-350-0010	5-1-03	Adopt	6-1-03	833-025-0005	12-16-02	Amend(T)	1-1-03
813-350-0020	5-1-03	Adopt	6-1-03	833-025-0005	4-28-03	Amend	6-1-03
813-350-0030	5-1-03	Adopt	6-1-03	833-025-0005(T)	4-28-03	Repeal	6-1-03
813-350-0030	10-13-03	Amend(T)	11-1-03	833-025-0006	12-16-02	Amend(T)	1-1-03
813-350-0040	5-1-03	Adopt	6-1-03	833-025-0006	4-28-03	Amend	6-1-03
813-350-0050	5-1-03	Adopt	6-1-03	833-025-0006(T)	4-28-03	Repeal	6-1-03
813-350-0060	5-1-03	Adopt	6-1-03	833-040-0001	12-16-02	Amend(T)	1-1-03
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818-021-0025	4-18-03	Amend	6-1-03	833-040-0010	12-16-02	Amend(T)	1-1-03
818-026-0000	10-1-03	Amend	10-1-03	833-040-0010	4-28-03	Amend	6-1-03
818-026-0010	10-1-03	Amend	10-1-03	833-040-0010(T)	4-28-03	Repeal	6-1-03
818-026-0020	10-1-03	Amend	10-1-03	836-009-0007	7-1-03	Amend(T)	8-1-03
818-026-0030	10-1-03	Amend	10-1-03	836-011-0100	11-27-02	Amend	1-1-03
818-026-0035	10-1-03	Amend	10-1-03	836-011-0110	11-27-02	Amend	1-1-03
818-026-0040	10-1-03	Amend	10-1-03	836-011-0120	11-27-02	Amend	1-1-03
818-026-0050	10-1-03	Amend	10-1-03	836-011-0130	11-27-02	Amend	1-1-03
818-026-0055	10-1-03	Adopt	10-1-03	836-011-0140	11-27-02	Amend	1-1-03
818-026-0060	10-1-03	Amend	10-1-03	836-011-0150	11-27-02	Amend	1-1-03
818-026-0070	10-1-03	Amend	10-1-03	836-011-0160	11-27-02	Amend	1-1-03
818-026-0080	10-1-03	Amend	10-1-03	836-011-0170	11-27-02	Amend	1-1-03
818-026-0100	10-1-03	Amend	10-1-03	836-011-0180	11-27-02	Amend	1-1-03
818-026-0110	10-1-03	Amend	10-1-03	836-011-0190	11-27-02	Amend	1-1-03
818-026-0120	10-1-03	Amend	10-1-03	836-011-0200	11-27-02	Amend	1-1-03
818-026-0130	10-1-03	Amend	10-1-03	836-011-0210	11-27-02	Amend	1-1-03
818-042-0050	7-18-03	Amend	8-1-03	836-011-0220	11-27-02	Amend	1-1-03
818-042-0060	7-18-03	Amend	8-1-03	836-011-0230	11-27-02	Amend	1-1-03
818-042-0120	7-18-03	Amend	8-1-03	836-011-0500	11-27-02	Adopt	1-1-03
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836-011-0520	11-27-02	Adopt	1-1-03	837-012-0940	2-10-03	Amend	3-1-03
836-011-0525	11-27-02	Adopt	1-1-03	837-020-0040	12-6-02	Amend	1-1-03
836-011-0530	11-27-02	Adopt	1-1-03	837-020-0050	12-6-02	Amend	1-1-03
836-011-0535	11-27-02	Adopt	1-1-03	837-020-0060	12-6-02	Amend	1-1-03
836-011-0540	11-27-02	Adopt	1-1-03	837-020-0080	12-6-02	Amend	1-1-03
836-011-0545	11-27-02	Adopt	1-1-03	837-020-0125	12-6-02	Amend	1-1-03
836-011-0550	11-27-02	Adopt	1-1-03	837-061-0015	7-3-03	Amend	8-1-03
836-012-0000	11-27-02	Amend	1-1-03	837-110-0007	2-1-03	Adopt	2-1-03
836-012-0011	11-27-02	Amend	1-1-03	837-110-0060	2-1-03	Amend	2-1-03
836-012-0021	11-27-02	Amend	1-1-03	837-110-0070	2-1-03	Amend	2-1-03
836-012-0031	11-27-02	Amend	1-1-03	837-110-0075	2-1-03	Adopt	2-1-03
836-012-0041	11-27-02	Amend	1-1-03	837-110-0140	2-1-03	Amend	2-1-03
836-012-0051	11-27-02	Amend	1-1-03	837-110-0150	2-1-03	Amend	2-1-03
836-012-0060	11-27-02	Amend	1-1-03	837-110-0155	2-1-03	Adopt	2-1-03
836-012-0070	11-27-02	Amend	1-1-03	839-016-0700	1-1-03	Amend	2-1-03
836-012-0080	11-27-02	Amend	1-1-03	839-016-0700	2-14-03	Amend	3-1-03
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836-043-0044	1-17-03	Amend	3-1-03	845-003-0270	7-1-03	Amend	8-1-03
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836-053-0021	11-27-02	Amend	1-1-03	845-004-0005	2-1-03	Amend	3-1-03
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836-053-0440	11-27-02	Amend	1-1-03	845-005-0327	4-1-03	Adopt	5-1-03
836-054-0300	11-27-02	Amend	1-1-03	845-005-0415	5-20-03	Amend(T)	7-1-03
836-071-0180	7-1-03	Amend(T)	8-1-03	845-005-0415	11-1-03	Amend	11-1-03
836-080-0425	6-1-03	Adopt	2-1-03	845-005-0422	5-20-03	Amend(T)	7-1-03
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836-081-0121	3-17-03	Adopt	5-1-03	845-006-0390	5-20-03	Amend(T)	7-1-03
836-081-0126	3-17-03	Adopt	5-1-03	845-006-0390	11-1-03	Amend	11-1-03
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837-012-0615	2-10-03	Amend	3-1-03	845-006-0396	5-20-03	Amend(T)	7-1-03
837-012-0630	2-10-03	Amend	3-1-03	845-006-0396	11-1-03	Amend	11-1-03
837-012-0635	2-10-03	Amend	3-1-03	845-006-0398	5-20-03	Amend(T)	7-1-03
837-012-0645	2-10-03	Amend	3-1-03	845-006-0398	11-1-03	Amend	11-1-03
837-012-0720	2-10-03	Amend	3-1-03	845-006-0430	5-20-03	Amend(T)	7-1-03
837-012-0740	2-10-03	Amend	3-1-03	845-006-0430	11-1-03	Amend	11-1-03
837-012-0760	2-10-03	Amend	3-1-03	845-006-0433	5-20-03	Amend(T)	7-1-03
837-012-0780	2-10-03	Amend	3-1-03	845-006-0433	11-1-03	Amend	11-1-03
837-012-0790	2-10-03	Amend	3-1-03	845-006-0434	5-20-03	Amend(T)	7-1-03
837-012-0810	2-10-03	Amend	3-1-03	845-006-0434	11-1-03	Amend	11-1-03
837-012-0820	2-10-03	Amend	3-1-03	845-006-0450	1-1-03	Amend	2-1-03
837-012-0830	2-10-03	Amend	3-1-03	845-006-0450	5-20-03	Amend(T)	7-1-03
837-012-0835	2-10-03	Amend	3-1-03	845-006-0450	11-1-03	Amend	11-1-03
837-012-0860	2-10-03	Amend	3-1-03	845-007-0015	7-1-03	Amend	8-1-03

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845-007-0035	9-1-03	Amend	9-1-03	847-010-0070	5-2-03	Amend	6-1-03
845-009-0005	7-1-03	Amend	8-1-03	847-020-0170	1-27-03	Amend	3-1-03
845-009-0010	7-1-03	Amend	8-1-03	847-020-0170	5-2-03	Amend	6-1-03
845-009-0015	7-1-03	Amend	8-1-03	847-020-0170	9-9-03	Amend(T)	10-1-03
845-009-0020	11-1-03	Amend	11-1-03	847-020-0180	5-2-03	Amend	6-1-03
845-009-0085	7-1-03	Amend	8-1-03	847-020-0190	7-15-03	Amend	8-1-03
845-009-0105	7-1-03	Amend	8-1-03	847-030-0041	7-15-03	Amend	8-1-03
845-009-0140	4-1-03	Amend	5-1-03	847-035-0030	1-27-03	Amend	3-1-03
845-010-0166	5-1-03	Amend	6-1-03	847-035-0030	7-15-03	Amend	8-1-03
845-010-0210	5-1-03	Amend	6-1-03	847-050-0005	7-15-03	Amend	8-1-03
845-010-0915	6-1-03	Amend	7-1-03	847-050-0010	7-15-03	Amend	8-1-03
845-013-0030	5-1-03	Amend	6-1-03	847-050-0020	1-27-03	Amend	3-1-03
845-013-0070	7-1-03	Amend	8-1-03	847-050-0023	7-15-03	Amend	8-1-03
845-013-0075	7-1-03	Amend	8-1-03	847-050-0025	7-15-03	Amend	8-1-03
845-015-0007	2-1-03	Am. & Ren.	3-1-03	847-050-0027	7-15-03	Amend	8-1-03
845-015-0010	2-1-03	Am. & Ren.	3-1-03	847-050-0029	1-27-03	Amend	3-1-03
845-015-0012	2-1-03	Am. & Ren.	3-1-03	847-050-0042	1-27-03	Amend	3-1-03
845-015-0020	2-1-03	Am. & Ren.	3-1-03	847-080-0022	1-27-03	Amend	3-1-03
845-015-0022	2-1-03	Am. & Ren.	3-1-03	848-010-0010	8-22-03	Amend	10-1-03
845-015-0025	2-1-03	Am. & Ren.	3-1-03	848-010-0015	8-22-03	Amend	10-1-03
845-015-0027	2-1-03	Am. & Ren.	3-1-03	848-010-0105	7-1-03	Amend	8-1-03
845-015-0028	2-1-03	Am. & Ren.	3-1-03	848-030-0000	2-6-03	Amend	3-1-03
845-015-0030	2-1-03	Am. & Ren.	3-1-03	848-030-0000	8-22-03	Amend	10-1-03
845-015-0032	2-1-03	Am. & Ren.	3-1-03	848-040-0040	8-22-03	Amend	10-1-03
845-015-0035	2-1-03	Renumber	3-1-03	848-040-0050	8-22-03	Amend	10-1-03
845-015-0045	2-1-03	Renumber	3-1-03	850-010-0035	10-9-03	Amend	11-1-03
845-015-0050	2-1-03	Renumber	3-1-03	850-010-0055	12-6-02	Adopt(T)	1-1-03
845-015-0055	2-1-03	Am. & Ren.	3-1-03	850-010-0055	4-11-03	Adopt	5-1-03
845-015-0060	2-1-03	Renumber	3-1-03	850-010-0195	2-14-03	Adopt	3-1-03
845-015-0065	2-1-03	Am. & Ren.	3-1-03	850-010-0210	12-10-02	Amend	1-1-03
845-015-0070	2-1-03	Am. & Ren.	3-1-03	850-010-0225	6-9-03	Amend	7-1-03
845-015-0075	2-1-03	Am. & Ren.	3-1-03	850-010-0226	6-9-03	Amend	7-1-03
845-015-0078	2-1-03	Am. & Ren.	3-1-03	851-001-0020	12-17-02	Adopt	2-1-03
845-015-0080	2-1-03	Am. & Ren.	3-1-03	851-002-0010	7-7-03	Amend	8-1-03
845-015-0085	2-1-03	Repeal	3-1-03	851-002-0040	7-7-03	Amend	8-1-03
845-015-0086	2-1-03	Am. & Ren.	3-1-03	851-021-0010	7-7-03	Amend	8-1-03
845-015-0090	2-1-03	Renumber	3-1-03	851-021-0040	7-7-03	Amend	8-1-03
845-015-0091	2-1-03	Am. & Ren.	3-1-03	851-021-0120	4-23-03	Amend	6-1-03
845-015-0092	2-1-03	Am. & Ren.	3-1-03	851-031-0005	3-6-03	Amend	4-1-03
845-015-0093	2-1-03	Renumber	3-1-03	851-031-0005	10-2-03	Amend	11-1-03
845-015-0095	2-1-03	Renumber	3-1-03	851-031-0006	3-6-03	Amend	4-1-03
845-015-0096	2-1-03	Renumber	3-1-03	851-031-0006	10-2-03	Amend	11-1-03
845-015-0100	2-1-03	Renumber	3-1-03	851-031-0010	3-6-03	Amend	4-1-03
845-015-0130	9-1-03	Amend	9-1-03	851-031-0010	10-2-03	Amend	11-1-03
845-015-0140	9-23-03	Amend(T)	11-1-03	851-031-0025	3-6-03	Repeal	4-1-03
845-015-0165	9-1-03	Amend	9-1-03	851-031-0030	3-6-03	Amend	4-1-03
845-015-0175	9-1-03	Amend	9-1-03	851-031-0040	3-6-03	Amend	4-1-03
845-015-0177	9-1-03	Amend	9-1-03	851-031-0045	3-6-03	Amend	4-1-03
845-015-0178	9-1-03	Repeal	9-1-03	851-031-0060	3-6-03	Amend	4-1-03
845-016-0020	5-1-03	Amend	6-1-03	851-031-0060	10-2-03	Amend	11-1-03
847-001-0010	1-27-03	Amend	3-1-03	851-031-0070	3-6-03	Amend	4-1-03
847-005-0005	4-24-03	Amend	6-1-03	851-031-0070	10-2-03	Amend	11-1-03
847-008-0005	1-27-03	Amend	3-1-03	851-031-0080	3-6-03	Amend	4-1-03
847-010-0051	1-27-03	Amend	3-1-03	851-031-0085	3-6-03	Adopt	4-1-03
847-010-0052	1-27-03	Amend	3-1-03	851-031-0086	3-6-03	Amend	4-1-03

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851-050-0000	10-2-03	Amend	11-1-03	860-011-0022	7-24-03	Amend	9-1-03
851-050-0001	10-2-03	Amend	11-1-03	860-011-0023	7-24-03	Amend	9-1-03
851-050-0002	10-2-03	Amend	11-1-03	860-011-0024	7-24-03	Amend	9-1-03
851-050-0003	10-2-03	Repeal	11-1-03	860-012-0010	12-9-02	Amend	1-1-03
851-050-0004	10-2-03	Adopt	11-1-03	860-012-0035	3-11-03	Amend	4-1-03
851-050-0005	10-2-03	Amend	11-1-03	860-012-0040	4-28-03	Adopt	6-1-03
851-050-0006	10-2-03	Adopt	11-1-03	860-014-0023	12-6-02	Adopt(T)	1-1-03
851-050-0010	10-2-03	Amend	11-1-03	860-014-0023	3-11-03	Adopt	4-1-03
851-050-0120	10-2-03	Amend	11-1-03	860-016-0015	6-10-03	Adopt	7-1-03
851-050-0121	10-2-03	Repeal	11-1-03	860-016-0050	12-9-02	Amend	1-1-03
851-050-0125	10-2-03	Amend	11-1-03	860-017-0050	7-9-03	Adopt(T)	8-1-03
851-050-0130	10-2-03	Amend	11-1-03	860-017-0100	7-9-03	Adopt(T)	8-1-03
851-050-0131	12-17-02	Amend	2-1-03	860-021-0009	10-1-03	Amend	11-1-03
851-050-0131	3-6-03	Amend	4-1-03	860-021-0015	7-3-03	Amend	8-1-03
851-050-0131	4-23-03	Amend	6-1-03	860-021-0021	10-1-03	Amend	11-1-03
851-050-0131	7-7-03	Amend	8-1-03	860-021-0034	7-24-03	Amend	9-1-03
851-050-0131	10-2-03	Amend	11-1-03	860-021-0036	4-28-03	Amend	6-1-03
851-050-0133	10-2-03	Amend	11-1-03	860-021-0037	4-28-03	Adopt	6-1-03
851-050-0134	10-2-03	Amend	11-1-03	860-021-0037	7-24-03	Amend	9-1-03
851-050-0138	10-2-03	Amend	11-1-03	860-021-0125	10-1-03	Amend	11-1-03
851-050-0139	10-2-03	Repeal	11-1-03	860-021-0130	10-1-03	Amend	11-1-03
851-050-0140	10-2-03	Amend	11-1-03	860-021-0200	10-1-03	Amend	11-1-03
851-050-0141	10-2-03	Repeal	11-1-03	860-021-0205	10-1-03	Amend	11-1-03
851-050-0145	10-2-03	Amend	11-1-03	860-021-0206	10-1-03	Amend	11-1-03
851-050-0150	10-2-03	Amend	11-1-03	860-021-0210	10-1-03	Amend	11-1-03
851-050-0155	10-2-03	Amend	11-1-03	860-021-0335	12-9-02	Amend	1-1-03
851-050-0170	10-2-03	Amend	11-1-03	860-021-0420	10-1-03	Amend	11-1-03
851-063-0060	4-23-03	Amend	6-1-03	860-022-0040	7-24-03	Amend	9-1-03
852-005-0005	7-1-03	Amend	7-1-03	860-022-0042	7-24-03	Amend	9-1-03
852-010-0025	7-1-03	Amend	7-1-03	860-022-0070	4-14-03	Amend	5-1-03
852-010-0027	12-18-02	Amend	2-1-03	860-027-0052	12-20-02	Amend	2-1-03
852-010-0051	12-18-02	Amend	2-1-03	860-032-0001	2-12-03	Amend	3-1-03
852-010-0080	7-1-03	Amend	7-1-03	860-032-0002	3-11-03	Amend	4-1-03
852-050-0005	12-18-02	Amend	2-1-03	860-032-0005	3-11-03	Amend	4-1-03
852-050-0005	7-1-03	Amend	7-1-03	860-032-0020	2-12-03	Amend	3-1-03
852-050-0006	7-1-03	Amend	7-1-03	860-032-0095	4-28-03	Amend	6-1-03
852-050-0012	7-1-03	Amend	7-1-03	860-032-0097	4-28-03	Adopt	6-1-03
852-050-0014	7-1-03	Amend	7-1-03	860-032-0610	12-9-02	Adopt	1-1-03
852-050-0018	12-18-02	Adopt	2-1-03	860-032-0620	12-9-02	Adopt	1-1-03
852-070-0010	1-1-04	Amend	10-1-03	860-032-0630	12-9-02	Adopt	1-1-03
852-070-0040	7-1-03	Amend	7-1-03	860-032-0640	12-9-02	Adopt	1-1-03
852-070-0060	1-1-04	Amend	10-1-03	860-032-0650	12-9-02	Adopt	1-1-03
852-080-0040	10-1-03	Amend	10-1-03	860-032-0660	12-9-02	Adopt	1-1-03
855-041-0065	1-14-03	Amend	2-1-03	860-032-0670	4-28-03	Adopt	6-1-03
855-041-0205	3-1-03	Amend	2-1-03	860-034-0030	10-1-03	Amend	11-1-03
855-080-0021	1-14-03	Amend	2-1-03	860-034-0060	7-3-03	Amend	8-1-03
855-110-0005	1-14-03	Amend	2-1-03	860-034-0090	10-1-03	Amend	11-1-03
856-010-0010	2-26-03	Amend	4-1-03	860-034-0095	4-28-03	Amend	6-1-03
856-010-0028	3-21-03	Adopt	5-1-03	860-034-0097	4-28-03	Adopt	6-1-03
856-030-0000	5-23-03	Amend	7-1-03	860-034-0110	10-1-03	Amend	11-1-03
856-030-0001	5-23-03	Adopt	7-1-03	860-034-0140	10-1-03	Amend	11-1-03
856-030-0002	5-23-03	Adopt	7-1-03	860-034-0160	10-1-03	Amend	11-1-03
856-030-0010	5-23-03	Amend	7-1-03	860-034-0250	12-9-02	Amend	1-1-03
856-030-0015	5-23-03	Amend	7-1-03	860-034-0310	7-3-03	Amend	8-1-03
856-030-0020	5-23-03	Amend	7-1-03	860-034-0330	7-24-03	Amend	9-1-03

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860-034-0740	12-20-02	Amend	2-1-03	863-015-0040	2-28-03	Amend(T)	4-1-03
860-036-0010	10-6-03	Amend	11-1-03	863-015-0040	8-1-03	Amend	9-1-03
860-036-0015	10-6-03	Amend	11-1-03	863-015-0045	2-28-03	Amend(T)	4-1-03
860-036-0025	10-6-03	Amend	11-1-03	863-015-0045	8-1-03	Amend	9-1-03
860-036-0030	10-6-03	Amend	11-1-03	863-015-0055	2-28-03	Amend(T)	4-1-03
860-036-0035	10-1-03	Amend	11-1-03	863-015-0055	8-1-03	Amend	9-1-03
860-036-0040	10-1-03	Amend	11-1-03	863-015-0065	2-28-03	Amend(T)	4-1-03
860-036-0045	10-6-03	Amend	11-1-03	863-015-0065	8-1-03	Amend	9-1-03
860-036-0050	10-1-03	Amend	11-1-03	863-015-0080	2-28-03	Amend(T)	4-1-03
860-036-0060	10-6-03	Amend	11-1-03	863-015-0080	8-1-03	Amend	9-1-03
860-036-0075	10-1-03	Amend	11-1-03	863-015-0085	2-28-03	Amend(T)	4-1-03
860-036-0080	12-9-02	Amend	1-1-03	863-015-0085	8-1-03	Amend	9-1-03
860-036-0080	10-6-03	Amend	11-1-03	863-015-0090	2-28-03	Amend(T)	4-1-03
860-036-0095	7-24-03	Amend	9-1-03	863-015-0090	8-1-03	Repeal	9-1-03
860-036-0097	7-24-03	Adopt	9-1-03	863-015-0095	2-28-03	Amend(T)	4-1-03
860-036-0105	10-6-03	Amend	11-1-03	863-015-0095	8-1-03	Amend	9-1-03
860-036-0115	10-1-03	Amend	11-1-03	863-015-0100	2-28-03	Amend(T)	4-1-03
860-036-0125	10-1-03	Amend	11-1-03	863-015-0100	8-1-03	Amend	9-1-03
860-036-0210	10-6-03	Amend	11-1-03	863-015-0120	2-28-03	Amend(T)	4-1-03
860-036-0240	10-6-03	Amend	11-1-03	863-015-0120	8-1-03	Amend	9-1-03
860-036-0245	10-6-03	Amend	11-1-03	863-015-0125	2-28-03	Amend(T)	4-1-03
860-036-0250	5-15-03	Adopt	6-1-03	863-015-0125	8-1-03	Amend	9-1-03
860-036-0305	10-6-03	Amend	11-1-03	863-015-0135	2-28-03	Amend(T)	4-1-03
860-036-0365	5-15-03	Adopt	6-1-03	863-015-0135	8-1-03	Amend	9-1-03
860-036-0405	10-6-03	Amend	11-1-03	863-015-0140	2-28-03	Amend(T)	4-1-03
860-036-0407	10-6-03	Adopt	11-1-03	863-015-0140	8-1-03	Amend	9-1-03
860-036-0410	10-6-03	Amend	11-1-03	863-015-0145	2-28-03	Amend(T)	4-1-03
860-036-0620	10-6-03	Amend	11-1-03	863-015-0145	8-1-03	Amend	9-1-03
860-036-0710	10-6-03	Amend	11-1-03	863-015-0175	2-28-03	Amend(T)	4-1-03
860-036-0716	5-15-03	Adopt	6-1-03	863-015-0175	8-1-03	Amend	9-1-03
860-036-0745	7-24-03	Amend	9-1-03	863-015-0185	2-28-03	Amend(T)	4-1-03
860-036-0756	5-15-03	Adopt	6-1-03	863-015-0185	8-1-03	Amend	9-1-03
860-036-0900	10-6-03	Amend	11-1-03	863-015-0255	2-28-03	Amend(T)	4-1-03
860-036-0905	10-6-03	Amend	11-1-03	863-015-0255	8-1-03	Amend	9-1-03
860-037-0030	10-1-03	Amend	11-1-03	863-015-0260	2-28-03	Amend(T)	4-1-03
860-037-0035	10-1-03	Amend	11-1-03	863-015-0260	8-1-03	Amend	9-1-03
860-037-0045	10-1-03	Amend	11-1-03	863-025-0010	2-28-03	Amend(T)	4-1-03
860-037-0070	10-1-03	Amend	11-1-03	863-025-0010	8-1-03	Amend	9-1-03
860-037-0075	12-9-02	Amend	1-1-03	863-025-0020	2-28-03	Amend(T)	4-1-03
860-037-0095	7-24-03	Amend	9-1-03	863-025-0020	8-1-03	Amend	9-1-03
860-037-0097	7-24-03	Adopt	9-1-03	863-025-0025	2-28-03	Amend(T)	4-1-03
860-037-0110	10-1-03	Amend	11-1-03	863-025-0025	8-1-03	Amend	9-1-03
860-038-0270	10-1-03	Adopt(T)	11-1-03	863-025-0030	2-28-03	Amend(T)	4-1-03
860-038-0420	7-3-03	Amend	8-1-03	863-025-0030	8-1-03	Amend	9-1-03
860-038-0445	7-3-03	Amend	8-1-03	863-025-0035	2-28-03	Amend(T)	4-1-03
860-038-0540	7-24-03	Amend(T)	9-1-03	863-025-0035	8-1-03	Amend	9-1-03
863-001-0000	8-1-03	Amend	9-1-03	863-025-0050	2-28-03	Amend(T)	4-1-03
863-001-0005	2-28-03	Amend(T)	4-1-03	863-025-0050	8-1-03	Amend	9-1-03
863-001-0005	8-1-03	Amend	9-1-03	863-025-0065	2-28-03	Amend(T)	4-1-03
863-015-0010	2-28-03	Amend(T)	4-1-03	863-025-0065	8-1-03	Amend	9-1-03
863-015-0010	8-1-03	Amend	9-1-03	863-030-0060	7-1-03	Amend	8-1-03
863-015-0015	8-1-03	Amend	9-1-03	863-030-0065	7-1-03	Amend	8-1-03
863-015-0025	2-28-03	Amend(T)	4-1-03	863-030-0075	7-1-03	Amend	8-1-03
863-015-0025	8-1-03	Amend	9-1-03	863-030-0080	7-1-03	Amend	8-1-03
863-015-0030	2-28-03	Amend(T)	4-1-03	863-040-0010	7-1-03	Amend	8-1-03

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863-040-0040	7-1-03	Amend	8-1-03	918-306-0150	6-24-03	Suspend	8-1-03
877-020-0020	7-1-03	Amend(T)	6-1-03	918-306-0150	10-1-03	Repeal	11-1-03
918-001-0010	1-1-03	Amend	2-1-03	918-306-0160	6-24-03	Suspend	8-1-03
918-001-0036	1-1-03	Adopt	2-1-03	918-306-0160	10-1-03	Repeal	11-1-03
918-008-0100	1-1-03	Repeal	2-1-03	918-306-0170	6-24-03	Suspend	8-1-03
918-090-0900	1-1-03	Repeal	2-1-03	918-306-0170	10-1-03	Repeal	11-1-03
918-225-0240	3-14-03	Amend	4-1-03	918-306-0200	6-24-03	Suspend	8-1-03
918-225-0315	3-14-03	Adopt	4-1-03	918-306-0200	10-1-03	Repeal	11-1-03
918-225-0560	3-14-03	Amend	4-1-03	918-306-0210	6-24-03	Suspend	8-1-03
918-225-0562	7-1-03	Adopt	4-1-03	918-306-0210	10-1-03	Repeal	11-1-03
918-225-0610	1-1-03	Amend	2-1-03	918-306-0220	6-24-03	Suspend	8-1-03
918-225-0610(T)	1-1-03	Repeal	2-1-03	918-306-0220	10-1-03	Repeal	11-1-03
918-225-0660	3-14-03	Amend	4-1-03	918-306-0230	6-24-03	Suspend	8-1-03
918-225-0665	3-14-03	Adopt	4-1-03	918-306-0230	10-1-03	Repeal	11-1-03
918-225-0670	2-3-03	Amend	3-1-03	918-306-0300	6-24-03	Suspend	8-1-03
918-225-0690	7-1-03	Repeal	4-1-03	918-306-0300	10-1-03	Repeal	11-1-03
918-225-0691	7-1-03	Adopt	4-1-03	918-306-0310	6-24-03	Suspend	8-1-03
918-225-0691	7-1-03	Amend	8-1-03	918-306-0310	10-1-03	Repeal	11-1-03
918-225-0700	7-1-03	Amend	4-1-03	918-306-0320	6-24-03	Suspend	8-1-03
918-225-0720	7-1-03	Amend	4-1-03	918-306-0320	10-1-03	Repeal	11-1-03
918-225-0740	7-1-03	Amend	4-1-03	918-306-0330	6-24-03	Suspend	8-1-03
918-225-0760	1-1-03	Repeal	2-1-03	918-306-0330	10-1-03	Repeal	11-1-03
918-225-0900	2-3-03	Adopt	3-1-03	918-306-0500	6-24-03	Suspend	8-1-03
918-225-0910	2-3-03	Adopt	3-1-03	918-306-0500	10-1-03	Repeal	11-1-03
918-225-0920	2-3-03	Adopt	3-1-03	918-306-0510	6-24-03	Amend(T)	8-1-03
918-225-0930	2-3-03	Adopt	3-1-03	918-306-0510	10-1-03	Amend	11-1-03
918-225-0940	2-3-03	Adopt	3-1-03	918-306-0600	6-24-03	Suspend	8-1-03
918-225-0950	2-3-03	Adopt	3-1-03	918-306-0600	10-1-03	Repeal	11-1-03
918-225-0960	2-3-03	Adopt	3-1-03	918-306-0610	6-24-03	Suspend	8-1-03
918-225-0970	2-3-03	Adopt	3-1-03	918-306-0610	10-1-03	Repeal	11-1-03
918-251-0090	1-1-03	Amend	2-1-03	918-306-0700	5-5-03	Amend(T)	6-1-03
918-251-0090	6-24-03	Amend(T)	8-1-03	918-306-0700	6-24-03	Suspend	8-1-03
918-251-0090	10-1-03	Amend	11-1-03	918-306-0700	10-1-03	Repeal	11-1-03
918-251-0090(T)	1-1-03	Repeal	2-1-03	918-306-0700(T)	6-24-03	Suspend	8-1-03
918-261-0020	6-24-03	Amend(T)	8-1-03	918-306-0700(T)	10-1-03	Repeal	11-1-03
918-261-0020	10-1-03	Amend	11-1-03	918-306-0705	5-5-03	Amend(T)	6-1-03
918-282-0017	1-1-03	Adopt	2-1-03	918-306-0705	6-24-03	Suspend	8-1-03
918-282-0017(T)	1-1-03	Repeal	2-1-03	918-306-0705	10-1-03	Repeal	11-1-03
918-282-0185	1-1-03	Adopt	2-1-03	918-306-0705(T)	6-24-03	Suspend	8-1-03
918-282-0185(T)	1-1-03	Repeal	2-1-03	918-306-0705(T)	10-1-03	Repeal	11-1-03
918-282-0290	1-1-03	Amend	2-1-03	918-306-0710	5-5-03	Amend(T)	6-1-03
918-282-0290(T)	1-1-03	Repeal	2-1-03	918-306-0710	6-24-03	Suspend	8-1-03
918-306-0000	6-24-03	Suspend	8-1-03	918-306-0710	10-1-03	Repeal	11-1-03
918-306-0000	10-1-03	Amend	11-1-03	918-306-0710(T)	6-24-03	Suspend	8-1-03
918-306-0010	6-24-03	Suspend	8-1-03	918-306-0710(T)	10-1-03	Repeal	11-1-03
918-306-0010	10-1-03	Amend	11-1-03	918-306-0715	5-5-03	Amend(T)	6-1-03
918-306-0100	6-24-03	Suspend	8-1-03	918-306-0715	6-24-03	Suspend	8-1-03
918-306-0100	10-1-03	Repeal	11-1-03	918-306-0715	10-1-03	Repeal	11-1-03
918-306-0110	6-24-03	Suspend	8-1-03	918-306-0715(T)	6-24-03	Suspend	8-1-03
918-306-0110	10-1-03	Repeal	11-1-03	918-306-0715(T)	10-1-03	Repeal	11-1-03
918-306-0120	6-24-03	Suspend	8-1-03	918-306-0720	5-5-03	Amend(T)	6-1-03
918-306-0120	10-1-03	Repeal	11-1-03	918-306-0720	6-24-03	Suspend	8-1-03
918-306-0130	6-24-03	Suspend	8-1-03	918-306-0720	10-1-03	Repeal	11-1-03
918-306-0130	10-1-03	Repeal	11-1-03	918-306-0720(T)	6-24-03	Suspend	8-1-03
918-306-0140	6-24-03	Suspend	8-1-03	918-306-0720(T)	10-1-03	Repeal	11-1-03
918-306-0140	10-1-03	Repeal	11-1-03	918-306-0730	5-5-03	Amend(T)	6-1-03

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918-306-0730	10-1-03	Repeal	11-1-03	918-400-0280	3-1-03	Amend	4-1-03
918-306-0730(T)	6-24-03	Suspend	8-1-03	918-400-0280(T)	1-1-03	Repeal	2-1-03
918-306-0730(T)	10-1-03	Repeal	11-1-03	918-400-0333	1-1-03	Adopt	2-1-03
918-306-0740	5-5-03	Amend(T)	6-1-03	918-400-0333(T)	1-1-03	Repeal	2-1-03
918-306-0740	6-24-03	Suspend	8-1-03	918-400-0335	1-1-03	Repeal	2-1-03
918-306-0740	10-1-03	Repeal	11-1-03	918-400-0340	1-1-03	Amend	2-1-03
918-306-0740(T)	6-24-03	Suspend	8-1-03	918-400-0340(T)	1-1-03	Repeal	2-1-03
918-306-0740(T)	10-1-03	Repeal	11-1-03	918-400-0345	1-1-03	Repeal	2-1-03
918-306-0750	5-5-03	Suspend	6-1-03	918-400-0350	1-1-03	Repeal	2-1-03
918-306-0750	10-1-03	Repeal	11-1-03	918-400-0355	1-1-03	Repeal	2-1-03
918-306-0750(T)	10-1-03	Repeal	11-1-03	918-400-0360	1-1-03	Repeal	2-1-03
918-306-0760	5-5-03	Amend(T)	6-1-03	918-400-0365	1-1-03	Repeal	2-1-03
918-306-0760	6-24-03	Suspend	8-1-03	918-400-0370	1-1-03	Repeal	2-1-03
918-306-0760	10-1-03	Repeal	11-1-03	918-400-0375	1-1-03	Repeal	2-1-03
918-306-0760(T)	6-24-03	Suspend	8-1-03	918-400-0380	1-1-03	Adopt	2-1-03
918-306-0760(T)	10-1-03	Repeal	11-1-03	918-400-0380(T)	1-1-03	Repeal	2-1-03
918-306-0770	5-5-03	Amend(T)	6-1-03	918-400-0385	1-1-03	Adopt	2-1-03
918-306-0770	6-24-03	Suspend	8-1-03	918-400-0385(T)	1-1-03	Repeal	2-1-03
918-306-0770	10-1-03	Repeal	11-1-03	918-400-0390	1-1-03	Adopt	2-1-03
918-306-0770(T)	6-24-03	Suspend	8-1-03	918-400-0390(T)	1-1-03	Repeal	2-1-03
918-306-0770(T)	10-1-03	Repeal	11-1-03	918-400-0395	1-1-03	Adopt	2-1-03
918-306-0780	5-5-03	Amend(T)	6-1-03	918-400-0395(T)	1-1-03	Repeal	2-1-03
918-306-0780	6-24-03	Suspend	8-1-03	918-400-0455	3-1-03	Amend	4-1-03
918-306-0780	10-1-03	Repeal	11-1-03	918-400-0465	3-1-03	Amend	4-1-03
918-306-0780(T)	6-24-03	Suspend	8-1-03	918-400-0525	3-1-03	Amend	4-1-03
918-306-0780(T)	10-1-03	Repeal	11-1-03	918-400-0630	3-1-03	Amend	4-1-03
918-307-0000	1-1-03	Repeal	2-1-03	918-400-0740	3-1-03	Amend	4-1-03
918-308-0020	1-1-03	Amend	2-1-03	918-400-0780	1-1-03	Repeal	2-1-03
918-308-0020(T)	1-1-03	Repeal	2-1-03	918-400-0800	1-1-03	Amend	2-1-03
918-308-0060	1-1-03	Amend	2-1-03	918-400-0800(T)	1-1-03	Repeal	2-1-03
918-308-0060(T)	1-1-03	Repeal	2-1-03	918-460-0015	10-1-03	Amend	9-1-03
918-308-0200	1-1-03	Amend	2-1-03	918-480-0005	4-1-03	Amend	2-1-03
918-308-0200(T)	1-1-03	Repeal	2-1-03	918-480-0010	1-1-03	Amend	1-1-03
918-308-0210	1-1-03	Amend	2-1-03	918-480-0010	1-10-03	Amend(T)	2-1-03
918-308-0210(T)	1-1-03	Repeal	2-1-03	918-480-0010	4-1-03	Amend	2-1-03
918-309-0000	4-1-03	Amend	4-1-03	918-480-0010(T)	1-1-03	Repeal	1-1-03
918-309-0025	7-1-03	Adopt	7-1-03	918-480-0020	4-1-03	Amend	2-1-03
918-309-0030	7-1-03	Amend(T)	8-1-03	918-650-0085	1-1-03	Repeal	2-1-03
918-309-0030	10-1-03	Amend	11-1-03	918-785-0030	1-1-03	Repeal	2-1-03
918-309-0030(T)	10-1-03	Repeal	11-1-03				
918-311-0020	7-1-03	Amend	7-1-03				